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Part I: Articles

The “Conflict” Conflict

How to debate “When in Conflict”

by Noah Gray

Anybody who debated in the 2011-12 season probably shuddered when they heard the phrase “when in conflict” in this year’s resolution. The key phrase was a major source of contention and misinterpretation in the 2011-12 season, and at the time, I was on the front lines, leading the charge of misinterpretations. Luckily, I’m here now to repent for my sins and teach you to avoid the mistakes I made as we talk about the phrase “when in conflict” in this year’s resolution.

To understand when freedom of speech and communities’ moral standards come into conflict, we have to first understand what the resolution means when it uses the phrases “freedom speech” and “community’s moral standards.” There are already two excellent articles on how to define these phrases, so this isn’t a comprehensive guide to defining the terms; it’s only my personal thoughts on building a normative understanding of the ideas behind the words and for understanding the ideas in context of the resolution.

# Freedom of Speech

“Freedom of Speech” can include many forms of expression, including books, movies, blogs, sermons, and debates — like the ones you’re preparing for now. Most dictionary definitions will narrow “speech” down to only oral communication, when we’re talking about freedom of speech as an idea, the physical act of exercising free speech is secondary to the *IDEA* of your ability to speak freely. Eleanor Roosevelt is attributed to having said, “Great minds discuss ideas; average minds discuss events; small minds discuss people.” In this case, although there is a distinction that *can* be made between “spoken speech” and other forms of communication, it’s more important to be a great mind talking about the ideas behind it. For example, a book that attempts to persuade people to join a new political party is protected for the same reasons that the same content would be protected if it was read out loud, and they’re both equally valid as arguments for or against free speech. Treating oral and non-oral speech as two different ideas in the context of this resolution is like talking about writing with a pencil and writing with a pen as two separate issues.

“Freedom of Speech” is protected, not given.

Free speech is an example of what’s called a negative right, which means a right to *not* be acted on. We don’t have a right to have free speech given to us, because it’s something we already have. What we *do* have is the right to not have it taken away. What’s the impact of that? The impact is that in the debate round, the phrase “free speech” doesn’t mean the extent that the government recognizes our freedom to speak. It means our absolute ability to speak freely, regardless of whether the government recognizes it. Our First Amendment didn’t create the right to free speech; it only promised to protect it.

“Freedom of Speech” only exists in a social context.

Tom Hanks in *Castaway* can talk to Wilson as much as he wants to, but his speech is meaningless because there’s nobody for him to speak to. Communication requires an audience. That means a crime planned in a diary or a dirty word whispered in a forest aren’t examples of exercising free speech in this resolution. The principles behind restricting or not restricting free speech don’t apply to examples where that speech isn’t happening in a social context. Not only are examples like that not a legitimate statement about the right to free speech, they also aren’t in context of a community’s moral standards, ergo not in context of the resolution.

These are just a few aspects of free speech. Emily’s article on free speech is a much more comprehensive guide to understanding free speech, but these are a few considerations to keep in mind when looking for ways it conflicts with a community’s moral standards. Like any idea, there’s a huge depth of ideas behind understanding free speech, and it can’t be uncovered in a few short paragraphs. However, this is a good place to start, and a good guide to avoiding squirrely examples.

# Community’s Moral Standards

“Community’s Moral Standards” mean the moral standards held by a community.

Should that go without saying? Maybe. What’s the impact? “Moral Standards” are whatever the community wants them to be. If a community thinks that tattoos are immoral, that’s the moral standard that is held by the community. If a community thinks communism is the only right form of government, that’s the moral standard being held by the community. *The defining element is not that the standards are accurate; it’s that the standards are being held by the community.* Communities can be either right or wrong about their moral standards, so there’s no *inherent* good in a community’s moral standards.

## “Community’s Moral Standards” isn’t absolute.

Nor should it be. No community is ever going to completely agree on every moral standard — that should be a no-brainer. However, that’s not a legitimate argument against the existence of a community’s moral standards. Say you and your friends all enjoy jazz, except for one person. Does that mean the rest of the group in general doesn’t enjoy jazz? You are able to talk about generalized standards without everybody agreeing about them. Abstract arguments that focus on how communities don’t completely agree on everything, how it’s impossible to know what a community believes, and how it’s impossible to define what a “community” is, etc., are avoiding the real debate. *You can talk about the ideas without an absolute definition.*

That’s not to say that it’s illegitimate to question what a community believes, or what constitutes a community, but be careful to not commit the bright line fallacy (debate jargon meaning an ideological line that one does not cross) of saying “since it’s hard to know what’s a community’s moral standard and what isn’t, let’s just say they don’t exist.” This type of argumentation has ruined many debates, and it detracts from the educational value of the activity.

## “Community’s Moral Standards” can mean a combination of things.

Nobody is part of a single social structure. Your family is a community, your professional circle is a community, your geographical location is a community, the government is a community, etc. So if we’re part of so many communities, how can we know which community’s moral standards we’re talking about? The most practical answer is this: *whichever community’s moral standards are conflicting with free speech*. Remember that the resolution is contrasting between freedom of speech and the community’s moral standards. It isn’t necessary to talk about the moral standards that are coming into conflict. You don’t have to limit your examples to a single community.

*Note: As a preemptive strike against squirrely cases, the distinction between “community’s” and “communities’” is irrelevant. Everybody is part of many communities, and whichever community’s moral standards are coming into conflict in your examples is the community you’re talking about. The community at hand can be different for every example. Plus, most people hate arguments about grammar, especially judges. And me.*

So, we have some ideas about what freedom of speech and a community’s moral standards are, so we can jump into talking about when they come into conflict.

# When in Conflict

## “When in conflict” limits the resolution.

Without the phrase, the resolution would be asking us which one was more generally valuable. Imagine the resolution “pirates should be valued above cowboys.” That resolution is asking us to compare two separate ideas without providing a link between them. The resolution, “When in conflict, pirates should be valued above cowboys,” actually gives us something to work with by giving us an area of comparison. Similarly, “When in conflict, an individual’s freedom of speech should be valued above a community’s moral standards” provides an area of comparison. This raises two big questions: First, why should one be valued above the other? And second, how do we value one above the other? (Hint: Value/Criterion, anybody?) The impact of this is, of course, that *it doesn’t matter which idea is more valuable.* It only matters which idea should be considered more valuable when they’re in conflict.

## “When in conflict” requires a solution.

Conflict goes beyond disagreement; conflict means an incompatibility. In other words, *when freedom of speech and a community’s moral standards come into conflict, only one idea will prevail.* The core of this resolution is discussing how to decide which idea should win the conflict. Enter the value. Your value should act as an external measurement of the resolution by resolving the conflict in individual cases. (Remember “individual cases”; we’ll be discussing the burden scope of the resolution later.) For example, in my case, “Ideological Progress” is the value. In other words, whichever solution to the conflict leads to the most ideological progress should be the solution that wins.

## “When in conflict” requires action.

“Conflict” means an incompatibility of ideas. We have to find a way of actually resolving the conflict by upholding one over the other. Time for (drumroll please) your *criterion*, or the means and measurement of your value. In my case, my criterion is “freedom from censorship,” which means that when freedom of speech and a community’s moral standards come into conflict, we resolve the conflict by either censoring or not censoring free speech.

## “When in conflict” shouldn’t set the burden scope.

This is where the theory becomes more complicated, and anecdotal thinking leads to misinterpretations. There are two schools of thought on the burden of “when in conflict.”

* **Incompatible.** The first way of thinking is that “when in conflict” means an incompatibility. Even if one idea is 1% better than the other, you can’t have 51% freedom of speech and 49% community’s moral standards in a single example. You can’t “semi-censor” a speech, either something is censored or it isn’t. So, even if one is only 1% better than the other, it has to result in choosing to have 100% of one idea and 0% of the other. While that’s accurate, it’s frequently taken out of context to mean that the entire resolution is absolute; that the Affirmative has to ALWAYS value freedom of speech and the Negative can NEVER value freedom of speech in the conflict.
* **One Example vs. the world.** The second way of thinking is that the phrase “when in conflict” sets a burden scope for each example, but not for the resolution as a whole, and that’s the burden scope that I would encourage you to use. Let’s look at a simplified example: You’re hungry and trying to decide where to eat. You only have enough money for one meal, and you can either get pizza or get Mexican food (this is in an alternate universe where taco pizza isn’t a thing). You have to make an absolute choice, you can’t be half at a pizzeria and half at a Mexican restaurant, so you’ll chose to either be 100% at the pizzeria or 0% at the pizzeria. However, that absolute choice is only happening in the single example. You can be faced with the same conflict 500 times, and just because you had to chose 100% of one and 0% of the other each individual time, that doesn’t necessarily mean that you will ALWAYS chose pizza over Mexican or vice versa. Applying that to this resolution, the burden scope looks like this: on one level, there’s a choice being made between freedom of speech and a community’s moral standards. Since the resolution uses the phrase “when in conflict,” we know there’s an incompatibility where only one idea can be chosen. However, the resolution isn’t limited to a single example. It’s very possible that the correct choice will be freedom of speech one time and a community’s moral standards the next time. Ergo, *the burden of the resolution is general.* That means that even though each individual choice will be 100% one idea and 0% the other, when you consider all the examples together, whichever side should be valued at least 51% of the time should be the side that wins. (It’s possible to value freedom of speech 100% over a community’s moral standards in only 51% of examples, and therein lies the burden.)

# An Epilogue on Burden Scopes and Pedanticism

Exact science is a great thing. Without a stringent adherence to technicality, we wouldn’t be able to have a lot of the things we have today like modern medicine, smartphones, accurate weather forecasts, safer cars, etc. But there’s a time and a place for everything, and it’s called college. As debaters, you have a responsibility to step off down from your ivory tower from time to time to fulfill some goals that aren’t strictly part of the argumentation. For example, you should aim to seek truth over your desire to win. You should aim to impact your audience in a positive way. You should aim to become a better person through the activity of debating. And possibly most importantly, you should aim to create a conversation with educational value; a debate where you, your opponent, your judge, and your audience all grow in their knowledge of the specific issue, of the logic of argumentation, and of their understanding of the world.

A relentless pursuit of technicality has the potential to stand in the way of the educational value of the debate. It’s the slope that most college debate leagues have soundly fallen off of, and it’s unfortunately the direction some high school leagues are heading in. Do your part to be part of the solution. Burden scopes have a high potential to ruin a debate by making it about counting up examples, devising complicated impact calculi, etc., and although the technical burden in a general resolution is at least 51% one vs. at most 49% another, don’t commit the sin of getting sucked into example-counting war. Instead of focusing on having more examples, focus on the general principles. Imagine one of your friends asks if you want to go see a drive-in movie after the sun goes down. You answer that day and night are a spectrum and there’s no exact moment that the sun “sets” because time is infinitely divisible. You might be technically right, but you know what your friend meant, and your answer isn’t helpful. It is important to understand that you can have a meaningful conversation without wasting the judge’s time on minutia and technicalities. Be a good sport, be educational, and don’t get too caught up in the burden scope.

In closing, I hope that this article is a good jumping off point for you to grow your own understanding of the resolution. The phrase “when in conflict” can be either a tool to progress the debate forward, or a barrier that stops you from having a healthy debate, and the difference between the two is going to be your attitude towards debate and the effort you put forward to understanding this resolution.

# A final closing pep talk

Debate theory is yours to own. I’m a believer that there is an objective right and an objective wrong way to think about argumentation, but that people like you and me (and coaches, authors, judges, etc.) don’t know everything about it just yet. There’s still a “meta-debate” (I’m misappropriating that term for my own use here) over what the right way to debate is, and the truth is that your ideas are just as valid as mine are. While it’s true that my thinking is coming from my years of studying debate and argumentation, I did things in my first year of debate that were dramatically different than what I was taught was the “right” way to do things by my coaches, and they worked very well for me. Do what works for you, and do what makes the most sense in your own mind. You have a unique perspective on debate, on communication, on persuasion, and on this resolution that nobody else has, and that makes you able to defeat ANY opponent. The idea that somebody else is an inherently “better” arguer or persuader than you are is simply ridiculous. You relate to people in a way that nobody else does, and you have thoughts that nobody else has, and there’s absolutely nothing stopping you from beating any debater you come into contest with. Take my experience and my research, and make it your own, because YOU are a powerful dynamo of ideas that nobody can overpower. So ride out into battle with the confidence to succeed, and when you win (and you will), I will tell you “I told you so.”

#Stars&StripesForever

Key Terms for Affirmative

by Emily Erickson

George Orwell once claimed that, “If liberty means anything at all, it means the right to tell people what they do not want to hear.”1 The idea of freedom of speech is much more than something the Founding Fathers came up with, more than a dictionary definition, or philosophical idea. It is one of the most essential liberties of natural law, traced through revolutions, and reformations throughout history. It is also a complex yet fundamental part of value argumentation. Understanding what the freedom of speech is and is not, when it has been valued and undervalued throughout history, and what its standards are throughout the world today is essential to grasp this resolution.

# Definitions

The definitions of any term can completely change a debate round. This isn’t just technicalities, this is explaining what we mean when we claim that an individual’s freedom of speech ought to be valued, or not valued. You might wonder if I’m advocating definitional cat fights; I’m not. Please, always choose definitions that you would agree to as the negative debater, and if you’re negative, don’t contest a definition unless it is something truly unreasonable. Seriously, you haven’t outgrown the golden rule because you walked into a debate round, so be mindful of the other speaker.

With that, here are the main definitions from mostly credible sources. ;)

## Freedom of Speech:

1. The right to express any opinions without censorship or restraint.2
2. The phrase freedom of speech refers to a citizen’s right to speak her own opinions without being punished by a government. In the United States, the First Amendment to the Constitution specifically protects freedom of speech[[1]](#endnote-1).3
3. The legal or natural right to say what you believe is true, without being prevented or punished. 4
4. The right of people to express their opinions publicly without governmental interference, subject to the laws against libel, incitement to violence or rebellion, etc. Also called free speech.5
5. The right to express information, ideas, and opinions free of government restrictions based on content and subject only to reasonable limitations (as the power of the government to avoid a clear and present danger) esp. as guaranteed by the First and Fourteenth Amendments to the U.S. Constitution6
6. The right, guaranteed by the First Amendment to the U.S. Constitution, to express beliefs and ideas without unwarranted government restriction. 7

## Freedom:

1. The power or right to act, speak, or think as one wants without hindrance or restraint.
2. Freedom is defined as the state of being free, independent, without restrictions, or release from prison.9

## Speech:

1. The expression of or the ability to express thoughts and feelings by articulate sounds.10
2. The faculty or power of speaking; oral communication; ability to express one’s thoughts and emotions by speech sounds and gesture.11

## Thus Say the Courts:

Lastly, I want to briefly sum up what the US Courts have decided is and is not included in the term “freedom of speech” in the constitution. While these decisions only apply to the United States, they while undoubtedly be important in a lot of rounds. (Plus, Cheyenne is the editor of this book and she is literally obsessed with court cases. #homeschoolwin)

## “Freedom of speech” includes the right:

* Not to speak (specifically, the right not to salute the flag). *West Virginia Board of Education v. Barnette, 319 U.S. 624 (1943).*
* The right of students to wear black armbands to school to protest a war (“Students do not shed their constitutional rights at the schoolhouse gate.”). *Tinker v. Des Moines, 393 U.S. 503 (1969).*
* To use certain offensive words and phrases to convey political messages. *Cohen v. California, 403 U.S. 15 (1971).*
* To contribute money (under certain circumstances) to political campaigns. *Buckley v. Valeo, 424 U.S. 1 (1976).*
* To advertise commercial products and professional services (with some restrictions). *Virginia Board of Pharmacy v. Virginia Consumer Council, 425 U.S. 748 (1976); Bates v. State Bar of Arizona, 433 U.S. 350 (1977).*
* To engage in symbolic speech, (e.g., burning the flag in protest). *Texas v. Johnson, 491 U.S. 397 (1989); United States v. Eichman, 496 U.S. 310 (1990).*

## Freedom of speech does not include the right:

* To incite actions that would harm others (e.g., “[S]hout[ing] ‘fire’ in a crowded theater.”). *Schenck v. United States, 249 U.S. 47 (1919).*
* To make or distribute obscene materials. *Roth v. United States, 354 U.S. 476 (1957).*
* To burn draft cards as an anti-war protest. *United States v. O’Brien, 391 U.S. 367 (1968).*
* To permit students to print articles in a school newspaper over the objections of the school administration. *Hazelwood School District v. Kuhlmeier, 484 U.S. 260 (1988).*
* Of students to make an obscene speech at a school-sponsored event. *Bethel School District #43 v. Fraser, 478 U.S. 675 (1986).*
* Of students to advocate illegal drug use at a school-sponsored event. *Morse v. Frederick, \_\_ U.S. \_\_ (2007).”* 12

You’ve probably already noticed some of the trends in the definitions of freedom of speech, first is that it can be both **limited and unlimited**. Some of the definitions (such as 1, 2, or 3) simply state that freedom of speech is being able to say what you want to say. However, definitions 4, 5 and 6 take a different approach by including the terms, “Subject to the laws”… “Subject only to reasonable limitations, without unwarranted government restriction, etc.” These definitions seem to imply that as a concept/idea/right, freedom of speech is naturally limited. Stanford’s Encyclopedia of Philosophy even claims that “The first thing to note in any sensible discussion of freedom of speech is that it will have to be limited…The task therefore is not to argue for an unlimited domain of free speech; such a concept cannot be defended. Instead we need to decide how much value we place on speech in relation to other important ideals…”12 As a debater, you will have to decide how you define unwarranted restriction or reasonable limitations if you use these definitions.

The second pattern in these definitions is that they all claim that the freedom of speech is a “right.” Some of the definitions specifically say a **civil or legal** right, others suggest that it is a right by **natural law**. This can become important when we ask why we have freedom of speech, who’s right it is to restrict, etc. If it is no more than a legal right, it probably simply exists for the good of society; however, if it is a moral right by natural law, then it shouldn’t be restricted unless it threatens someone else’s natural or moral rights.

Lastly, is the issue of **symbolic or purely verbal** speech. You may wonder how wearing wrist bands or burning flags count as “speech.” Technically – according to the Supreme Court – it does. While the strict definitions of speech claim that the freedom of speech is communicating by spoken word, this changes when we look at the real world. Although we often throw around the term “freedom of expression,” there are no such words in the United States Constitution. Therefore, through judicial decisions it has become common that the definition of freedom of speech includes symbolic speech. So, here in the United States you are free to sit on your car huddled under a neon umbrella or practice interpretive dance in the park because of freedom of speech, even if you aren’t “saying” anything. (Your soul is speaking, that is all that matters.)

# Philosophy

Since we’ve just recently discussed limited and unlimited “free speech,” it’s important to look at some of the primary arguments for various limitations (or the lack thereof) on free speech. We’ll be moving from “libertarian to liberal” (sort of). How much should free speech be limited, and why?

## 1. Not At All.

This is hardcore American mode, #starsandstripesforever—Freedom of speech shouldn’t be limited—ever. The primary reason people claim there should be no limitations on what a person can say is because of a “slippery slope.” This basically means that we shouldn’t start limiting freedom of speech because we will keep finding reasons to limit it until we have no freedom left at all. Other arguments are that having free speech completely free allow for full competition of ideas in the marketplace/society as a whole. Perhaps the best advocacy for “not at all,” is a look at the restrictions such as blasphemy laws that have been around since the beginning of time. In many countries speaking “blasphemy” against a religion is punishable by imprisonment or even death. Sounds extreme. However, the “not at all” philosophy allows literally everything, regardless of how obscene, offensive or violent, which is viewed by some as just as extreme.

## 2. If It Harms

John Stuart Mill was the first to solidify the idea of the “harm principle”: the idea that freedom of speech should only be limited if it directly harms someone. This claim has been used against things like pornography that either harms or encourages harm of women and children, and hate speech which either encourages violence against different groups of people or individuals, or perhaps drives someone to commit suicide. The harm principle is great for when we feel that freedom of speech should be limited, but don’t believe in a “censorship society,” where it doesn’t exist at all. The problem with the harm principle is that very infrequently can speech be tied to direct harm, while often indirect harm is. The “bright line” is somewhat weak in determining what speech should be limited.

## 3. If It Offends

While the offense principle certainly would limit displays, comments or protests that we find personally revolting, it opens up a can of worms because people are easily offended, to say the least. You need look no farther than the “debates” that occur over social media where exchanges of ideas rapidly turn into nastiness for the world to see. Some people are offended simply by seeing a cross displayed in public, or a religious carol sung in public at Christmas time. While most of us would love to use the offense principle in regards to other people, it’s pretty dramatic to think how many of our own comments and beliefs would be removed if it were used as a standard in our society.

Every case will have different opinions on how much free speech ought to be limited. I believe that everything is subject to the fundamental rights of life, liberty and property. Like my coach explained, while we have freedom of religion, that doesn’t mean that human sacrifice is permissible. You’ll have to decide how your case will explain freedom’s limitations and decide what you believe they are.

# Historically Speaking

Freedom of speech is internationally considered a right, but it hasn’t always been that way. The history of freedom of speech, as a concept, begins much later than you might expect. While Socrates was one of the first to claim the freedom to express your thoughts and ideas was a right, he was executed. Before its deterioration, the Roman Republic had freedom of speech but only for a short period of time. Not until the Reformation, when different individuals refused to adhere to the Catholic Church’s censorship of speech and of the press did freedom of speech become a big issue. During the 17th-19th centuries it truly came into full growth as an idea, pondered by dozens of philosophers and everyday people such as those who fled Europe in search for liberty. There have been different time periods where freedom of speech has flourished or been controlled, usually during times of war.

# The Status Quo

While Lincoln-Douglas debate is about timeless principles, it is nonetheless important to quickly sum up what the beliefs and laws regarding freedom of speech are in regions around the world. (I love pie in the sky, but put a pie in front of me and you’ve won my heart forever.)

## Africa

Nearly every nation in Africa that has a constitution includes the right to freedom of speech within it, however that doesn’t necessarily mean anything as far as true protection goes. According to Freedom House, only 6% of North Africa is free, and 20% of sub-Saharan Africa is free.13 (Freedom of speech is only one of the factors in this study, but it’s still a pretty accurate number.) One of the issues with many countries in Africa is that while they have a government, there are dozens of warring factions and tribes that are often despotic for religious or political reasons.

## Asia

Free speech is a rare treat throughout Asia, found only in a handful of countries such as Japan, Mongolia and the providence Hong Kong. Nations such as China and North Korea are famous for their censorship and oppressive regimes, yet even nations like South Korea have strict laws when it comes to freedom of speech in particular. Some countries only monitor speech for security threats, other sift through internet content more carefully, often imprisoning reporters or bloggers. In countries such as Thailand, speaking against Buddhism is a crime, while blaspheming Islam is a crime in places like Indonesia.

## India

India is one of those rare countries that actually upholds the majority of its constitution, including the right to free speech. There are rare limitations to speech in India, predominately libel laws.

## The Middle East

Blasphemy laws are more concentrated in the Middle East than any other region of the world; in nearly every country it is a criminal offense to speak against Islam. Some countries only persecute their own citizens, while countries such as Iran are famous for imprisoning journalists and reporters from around the world. Freedom House states that as of 2014, Israel is the only free nation in the Middle East, and even there, freedom of speech specifically is limited for security reasons. In most countries free speech is restricted for the sake of political power, for religious, and for moral reasons throughout the Middle East.

## Europe

As a whole, Europe is much like the United States when it comes to the freedom of speech. While it is protected for the most part, there are restrictions as far as security and hate speech go. In addition, it is a criminal offense in many European countries to deny the Holocaust happened, as well as promoting communism, Nazism or fascism, as result of the Second World War. Russia is the only European country where speech is censored strictly.

## North America

The United States protects freedom of speech, but it has limitations (see the Supreme Court rulings in the Definitions section). There are also limitations set for moral reasons: libel laws, anti-discrimination laws, and pornography limitations are in place. The Canadian government also protects freedom of speech, arguably even more than the United States. While people are constantly prosecuted for making offensive statements, they are almost always struck down in court.

## South America

There is no established pattern for free speech in South America. While countries such as Cuba and Venezuela limit speech very strictly, others such as Brazil protect it both in their constitutions and enforcement.

## Australia

Lastly the good ol’ Aussies don’t actually have freedom of speech written into their constitution in the same way as the United States, but they still currently have high ratings from Freedom House. 13

# Who Cares?

It may sound heretical to write “who cares?” when talking about something like freedom of speech. I mean, it’s America—we have freedom of speech and apple pie and baseball! However, in Lincoln Douglas it’s important to question why things are important, not just assume that they are. Freedom of speech in and of itself leads to nothing more than the loud chaos which is human expression, but why is that worthwhile?

You may remember at the beginning of the article when I mentioned that freedom of speech is defined as both a natural and legal right. This is because freedom of speech can be both intrinsically and extrinsically good. (Meaning it is has value in itself, and that it also has some pragmatic worth as well.)

## Intrinsic

Freedom of speech is considered to be intrinsically good because of the idea that all men are created equal. As equally valuable human beings, we deserve the equal right to express our thoughts, ideas, and feelings. Perhaps you’ve been part of a conversation where you felt locked out, like you didn’t have the right to say anything—it can be disheartening. It’s no more encouraging to look at a world where entire people groups are silenced because no matter who they are, they deserve a voice. They are intrinsically valuable, therefore their right to express themselves is intrinsically valuable. Secondly, the freedom of speech allows for mankind to be honest with ourselves. What I mean is that even when freedom of speech is taken away and people are forced to say things, they don’t believe them, like those before the Inquisition. In fact, I doubt the Inquisition have ever gained a convert to their religion, all they had was a handful of lies that helped them sleep at night. No, in order to be truthful, to side with our conscience, we must be free.

## Extrinsic

Freedom of speech is primarily thought of to be a part of natural law, but it is also pragmatic to an extent for two main reasons. The first reason is that it allows thoughts to “fight it out,” so to speak. Perhaps 99% of the opinions expressed in the medical research field are false, but just suppose that in the 1% we find the cure to cancer. Humans are created with incredible minds. Allowing those minds to experiment is good for society. Freedom of speech not only helps society advance, it also keeps a reign on political leaders. African Americans would have never been given their rights, and women would not have been allowed to vote had it not been for those who exercised the freedom of speech. Tyrannical societies have a few things in common, one of those is that they always stomp out the freedom of speech. Dictators have no interest in listening to people who don’t agree with them. Freedom of speech, however, is one of the safeguards to our liberty as a whole. George Washington once claimed that, “If the freedom of speech is taken away, then dumb and silent we will be led like sheep to the slaughter.”

This by no means covers everything there is to know about freedom of speech; I’ve barely scratched the surface. Hopefully you will know what you are arguing about, what the primary views on it are, and what it is like around the world. Read a lot, think a lot, ask a lot, and drink lots of coffee.

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What in the World are Community Moral Standards?

Key Terms for Negative

by Stephen Steininger

To quote from my favorite superhero, Nacho Libre, “Let’s get down to the nitty, gritty.” In this article that is what exactly what we’re going to do. We are going to get down to the “nitty, gritty” of the negative side of this resolution. For your benefit I am breaking this article up into two sections. First, we will look at each word on the negative side of the resolution explaining what it means and how it operates in the resolution. Then we will look at this idea of community moral standards, and see that this is not too foreign of an idea. All right, enough with introductions, let’s do this!

# Community:

<http://www.merriam-webster.com/dictionary/community>

1. A group of people who live in the same area (such as a city, town, or neighborhood)
2. A group of people who have the same interests, religion, race, etc.
3. A group of nations

<http://dictionary.reference.com/browse/community>

1. A social group of any size whose members reside in a specific locality, share government, and often have a common cultural and historical heritage.
2. A locality inhabited by such a group.

<http://www.oxforddictionaries.com/definition/english/community>

1. The people of a district or country considered collectively, especially in the context of social values and responsibilities; society

Okay, now some analysis. I think what you need to keep in mind while debating community moral standards is that “community” is more the just a small amount of people. It can be a large group or a small group because it is based on *unity* rather than *size*. This broadens the scope of the debate allowing you more freedom to attack the affirmative, and more areas to defend your side.

# Moral :

<http://dictionary.reference.com/browse/moral>

1. Concerning or relating to what is right and wrong in human behavior
2. Based on what you think is right and good
3. Considered right and good by most people: agreeing with a standard of right behavior

<http://www.merriam-webster.com/dictionary/moral>

1. Of or relating to principles of right and wrong in behavior: [ethical](http://www.merriam-webster.com/dictionary/ethical)
2. Expressing or teaching a [conception](http://www.merriam-webster.com/dictionary/conception) of right behavior
3. Conforming to a standard of right behavior
4. Sanctioned by or [operative](about:blank) on one’s conscience or ethical judgment <a *moral* obligation>
5. Capable of right and wrong action

This word is the most important word in the resolution for the negative side. Here is why: in this resolution you need to understand that the way the resolution is using moral, is in a relative way. This is true because the wording says “community’s moral standards.” This is saying you need to evaluate the moral standards of an individual community, not the higher moral standard of God, natural law, etc. So, for you as the negative, you need to understand what different communities hold as their right and wrong. This is going to be really hard for many of you to get past, but you have to in order to have a good, educational debate.

# Standard:

<http://dictionary.reference.com/browse/standard>

1. Something considered by an authority or by general consent as a basis of comparison; an approved [model](http://dictionary.reference.com/browse/model).
2. An [object](http://dictionary.reference.com/browse/object) that is regarded as the usual or most common size or form of its kind: We stock the deluxe models as well as the standards.
3. A rule or principle that is used as a basis for judgment: They tried to establish standards for a new philosophical approach.

<http://www.merriam-webster.com/dictionary/standard>

1. A level of quality, achievement, etc., that is considered acceptable or desirable
2. Ideas about morally correct and acceptable behavior
3. Something that is very good and that is used to make judgments about the quality of other things

This word is really just emphasizing what I said earlier about this idea of community’s moral standards being relative based on which community you are in. Standards are really just morals in action, so the moral standards of a community are the things that are right and wrong in that community. Again, this is crucial because you have to show why a community should value their moral standards, higher than an individual’s freedom of speech.

# Conclusion

We have looked at each individual word in the resolution giving you some definitions and explanations. Now we will look at this phase “community’s moral standards.” I think this is an idea more familiar to you then you may realize. This idea of community moral standards is a lot like the idea of general welfare. The idea behind general welfare is attempting to do what is best for the greatest amount of people. This idea of community moral standards is upholding what a community deems right and wrong. So, really the idea you are defending is not too different from defending the general welfare. I think keeping this in mind allows you to better defend your side, because instead of defending this abstract idea you are defending a very popularized and defended idea.

All right, I hope this helped you have a better understanding of how the negative side of the resolution works. Good Luck!! And to finish with a quote, for Nacho, “beneath the clothes, we find a man, and beneath the man we find his nucleus.” So all of you should dig, and dig and dig into this resolution and find the nucleus. Then you will truly be awesome.

Can vs. Should

Philosophical Insight to the Resolution

by Matthew Erickson

# The Ancient World

In the Ancient World, freedom of speech simply did not exist. The leader at any given time decided what true and acceptable speech was, and dissenters either overthrew the leader and implemented their own community standards or were silenced. It was normal for entire families to be killed simply because a family member was disliked by the powers of the time. That is, until the Greeks came on the scene.

## Athens

The fact that the Greeks (the Athenians and Ionians specifically) broke from this pattern and established a society that was more or less tolerant not only of foreign cultures but dissenting ideas, is somewhat of a mystery. They were not a particularly homogenous society where people knew every member of their community. They didn’t even live in a very peaceful region where people were inclined to listen to other people’s perspectives and find a peaceful resolution to their problems. To the north were the power-hungry Macedonians. To the south, the tyrants of Egypt. To the East lay the perpetual enemy of the Greeks, the oppressive Babylonian empire. In the West were mostly barbarians, the possible exception being the Latin tribes that would one day rule the world’s most notorious empire. Here, in the most unlikely of places, democracy and freedom were born.

The first major challenge to Athens’ tolerance came in the form of the immortal Socrates. He was an irritating little man who ridiculed leaders in the streets and advocated an end to their democratic system. This brings us to our first major philosopher: Socrates.

## Socrates

Nothing we have of Socrates was written by himself. His enthusiastic student, Plato, recorded most of his teachings. However, we can be fairly sure that at least some of the ideas Plato attributed to him were his; after all, something he said got him executed. He swayed young men to turn against the ways of their fathers, abandoning both the religious norms of the time and, ironically, the political system that allowed him the freedom to critique it in the first place. Socrates also refused to fulfill his civic and jury duties, believing that they were below him. In sum, he had violated many of Athens’s moral standards.

In the end, the Athenians decided to convict Socrates of corrupting the youth, and sentenced him to death. They chose to uphold their moral standards at the expense of freedom of speech. This was a significant change from their previous policy of free speech, and it seems they were ashamed enough to never do it again. As the Encyclopedia Britannica puts it, “the trial of Socrates is the only case in which we can be certain that an Athenian was legally prosecuted not for an overt act that directly harmed the public or some individual—such as treason, corruption, or slander—but for alleged harm indirectly caused by the expression and teaching of ideas.”[[2]](#footnote-1)

## The Socratic Method

One contribution Socrates made deserves a section all to itself. While there are many different forms of the Socratic Method (the dialectic developed by Hegel and Marx being most prominent), the Socratic Method was the first of its kind. The Socratic Method held that for truth to be found, it was important for all arguments to be challenged so that false ones could be weeded out and good ones could be improved.

After Greece became a puppet state of the Macedonians, free speech effectively ended. The Roman Empire wasn’t much better. While certain senators (like Cicero) advocated for freedom, such freedoms were short lived and incomplete.

# The Middle Ages

With the fall of the Roman Empire, the Catholic Church took its mantle of power in Europe for the duration of the Middle Ages. While there was a certain amount of discussion allowed within Church on theological topics, the Church declared itself as the official arbiter of truth. Those who disagreed were almost certainly in danger. Some notable examples of people being silenced for heresy are Thomas More, Joan of Arc, and Jan Hus.

# The Reformation & Enlightenment

## Martin Luther

“The Church of Rome ... has become the most lawless den of thieves, the most shameless of all brothels, the very kingdom of sin, death and hell; so that not even antichrist, if he were to come, could devise any addition to its wickedness.”[[3]](#footnote-2) – Martin Luther

Talk about fighting words! Martin Luther and the Reformation marked a major turning point in the Catholic Church’s loss of power. Martin Luther came at a time when dissatisfaction with the Catholic Church had come to a head and people were ready for an alternative. Consider another quotation from Martin Luther: “A Christian man is the most free lord of all, and subject to none”[[4]](#footnote-3). How very different from the teachings of the time! The Reformation’s message that all people should be able to read and discuss the scriptures freely was a major step forward for what would later be called freedom of speech. While complete freedom was by no means guaranteed within reformed countries like Germany, Norway, Sweden, and Scotland, the Reformed Church’s stance made them more quickly receptive when the Renaissance came along.

## John Milton

Fast forward over a hundred years. The Reformation has taken root in England, and the English Civil War rages to decide whether the Kings of England or Parliament will hold the upper hand. While the Puritans had initially supported more freedom of speech and of the press while the Church of England was persecuting them, now that they have power they have instituted their own censorship. They simply replaced the “Star Chamber” (the King’s censorship body) with the Licensing Order of 1643.

Enforcement of this legislation had disallowed John Milton, a blind poet, from publishing his thoughts on why divorce should be legalized under certain circumstances (ironically, his ideas were adopted only a few years later by the same Puritans who persecuted him when they included allowances for divorce in the Westminster Confession of Faith). In response, John Milton published *Areopagitica,* one of the most influential works in defense of freedom of speech. The crux of Milton’s argument was that truth will win out against error when the two are pitted against each other, so it makes no sense to engage in censorship. In his words “And though all the winds of doctrine were let loose to play upon the earth, so Truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse in a free and open encounter?”[[5]](#footnote-4) John Milton’s argument about the necessity of freedom of expression (referred to as the “Marketplace of Ideas”) would form the foundation that other philosophers like John Locke, Jean Jacques Rousseau, and John Stuart Mill would incorporate into their own works.

## John Locke

While John Locke is most noted for his works in his *Second Treatise on Civil Government*, he did publish another work: *Letter Concerning Toleration.* The main purpose of this letter was to articulate his views on the relation between religion and government. In it, he makes three primary arguments why governments should not try to force moral standards on its constituents. The Stanford Encyclopedia of Philosophy sums up Locke’s thoughts in the following way: “First, he argues that the care of men’s souls has not been committed to the magistrate by either God or the consent of men… Locke’s second argument is that since the power of the government is only force, while true religion consists of genuine inward persuasion of the mind, force is incapable of bringing people to the true religion. Locke’s third argument is that even if the magistrate could change people’s minds, a situation where everyone accepted the magistrate’s religion would not bring more people to the true religion. Many of the magistrates of the world believe religions that are false.”[[6]](#footnote-5)

## John Stuart Mill

The last major thinker we will discuss in this article is John Stuart Mill. While Mill is most famous for his Utilitarian thought, he also wrote extensively on how important freedom of speech is and the restrictions that are necessary to rein it in. He built upon John Milton’s “Marketplace of Ideas” by arguing that all arguments, no matter how preposterous or sinister, should be allowed consideration (even John Milton believed there should be some restrictions on content). The main restriction on freedom of speech should be guided by what Mill called the “Harm Principle.” The Harm Principle is that ‘the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”[[7]](#footnote-6)

The harm principle is, perhaps, the most important piece of thought devised on the subject of Freedom of Speech and its limitations. It has been referenced in multiple Supreme Court cases, and is mentioned in almost any scholarly discussion on the subject.

# Conclusion

This is by no means close to an exhaustive list of the philosophical and historical foundations of the conflict between freedom of speech and community moral standards. However, by doing your own research on the aforementioned subjects, you will doubtless be lead down numerous and glorious bunny trails of thought.

A Walk through Time

Historic Applications

by Phillip Allevato

Although not always being known as the “right to free speech,” the idea of expressing one’s own opinions has been a subject of discord throughout history. So, taking a step back, we are going to look at some examples that apply to a wider spectrum of values and hopefully be used in a variety of situations. We’ll start out in the past and work our way up to today. I encourage you to take these examples as kick starters to your own research. Know these historical applications this year when debating the conflicts between an individual’s freedom of speech and a community’s moral standards.

# Spanish Inquisition - Tomas de Torquemada (1478-1834)

One of the largest blights upon Christendom is the dreaded Spanish Inquisition, with Tomas de Torquemada at its head.During the time of the Spanish Inquisition, no freedom of expression was permitted. Anything that went against the teachings of the Catholic Church, whether good or bad, was punished severely. If an opinion was expressed that was contrary to what the community believed, it was considered heresy, and perpetrators were persecuted. As Grand Inquisitor, Torquemada was relentless, and eventually succeeded in having all Jews expelled from Spain. Actual reliable numbers of those affected by the Inquisition are few and far between, but most historians believe that 100,000-200,000 were investigated, with around 2% actually being executed.1 While not all cases had to do with freedom of speech, many were as simple as the broader community’s sense of morality being violated by a word spoken out of place.

# Roman Inquisition - Galileo Galilei (1615)

Born in 1564, Galileo Galilei is well-known for his scientific and astronomic discoveries, most notably his championing of heliocentrism (the idea that the Sun is the center of the universe).2 Unfortunately, he made his revelation during the height of the Roman Inquisition (not to be confused with the Spanish Inquisition referenced above). The Inquisitors felt this idea was heretical and went against God’s teachings.3 Therefore, Galileo was blacklisted, and his works banned from circulation. He was forced to recant his stated belief and was placed under house arrest for the rest of his life.4

# Nazi Suppression - Stasi (1950-1990)

One of the most effective tools of the Nazi regime was their control of information within Germany. As they gained more and more power, fewer and fewer works of literature and art were allowed, and speech was regulated with an iron fist.5 Little criticizing or contradicting the government was allowed, books that did so were sometimes burned.6 One of the most unfortunate problems was that the government was not the only party to blame. Nazism had become morality for many of the people of Germany, with Adolf Hitler its champion leader. This allowed the Stasi, an incredibly effective and ruthless intelligence-gathering organization, to employ thousands of informants in secret. 7 Private citizens, imbued with over-zealous patriotic fervor spied upon neighbors and family members, turning in those who went against the prescribed system of thought. According to the New York Times, historians believe there to have been one Stasi informant for every 6.5 citizens at one point during the Nazi regime. In this case, freedom of speech was discarded, overshadowed by the beliefs of the community.

# Hate Speech and Racial Slurs - Brandenburg vs Ohio (1969)

The vast majority today frowns upon racist comments and excessively hateful/hurtful speech. However, there still are individuals who don’t care about normal community moral standards. Clarence Brandenburg was one such individual. A member of the Ku Klux Klan, Brandenburg was an outspoken racist, hating African Americans as well as Jews. He made multiple speeches that were full of racial slurs and encouragement of harming those he considered beneath him. He was consequently arrested and convicted.8 However, he contested the ruling, and his case made it to the U.S. Supreme Court, where it became a landmark freedom of speech and First Amendment ruling.9

The U.S. Supreme Court overruled his previous sentence and dismissed his charges, finding that his situation did not fulfill the requirements for arrest or conviction. Namely, his racist behavior did not constitute or threaten “imminent lawless action.” The justices stated: “...constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.”10

Even though his speech was inflammatory and hateful, the Supreme Court found that Brandenburg’s right to free speech allowed him to express his opinions, as long as they didn’t invite a true harmful response.

# Civil Rights Movement - Martin Luther King Jr. (1976-present)

For much of the 20th Century, community standards in the United States (especially the South) said that African Americans were subpar individuals or lesser human beings. While of course we know that this is *not* the case, the sad fact remains that many did think so. There were laws that prohibited interracial couples, interracial schools, and even interracial water fountains.11 This deplorable mindset is what led to the modern-day civil rights movement. The man who led this charge was Martin Luther King Jr., known for his incredible oratorical skills.

King spoke out against injustices like segregation, impartial decisions of the justice systems, and the lack of voting privilege for African Americans.12 Martin Luther King Jr. was definitely counter-cultural, but he was also in the right. His freedom to speak was many times curbed, and attempts to silence him were frequent (and sadly, ultimately successful). Although many frowned upon him, his freedom to speak allowed an incredible change to take place in America.

# Gag orders - O.J. Simpson (1994-1995)

A gag order, also known as a protective order, is an order from a judge in a criminal trial that restricts information or comments from being made public. Gag orders provide protection to parties, witnesses or potential jurors.13 Gag orders as we know them today were defined in 1976 with Supreme Court precedents. Many gag orders are issued in high-profile celebrity cases, or in particularly graphic or humiliating circumstances. There are many reasons for and against gag orders, and some of the more famous cases bring those to light.

The first is the 1994 murder trial of O.J. Simpson, famous NFL running back. Because he was such an enormous celebrity, the impartiality of jury members was called into question. Add to this fact that the media was trying him by proxy led the court to issue a gag order upon members of both the defense and the prosecution to try and ensure a fair trial.14 This was applauded by some, but also criticized. Members of the prosecution were angry that they couldn’t garner support or speak out to try and bring light to domestic violence. It also led to a further gag order in a concurrent civil suit against Simpson.15

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It’s Conflict Season!

Applications 2000-Present

by Noah Gray

You and I are in the business of hunting conflict, and business is booming! Everywhere you look, you see freedom of speech coming into conflict with a community’s moral standards, whether it’s a controversial advertisement, an unpopular opinion, a parody, or any of the number of infinite ways to offend people. How many times does free speech come into conflict with a community’s moral standards? Basically all the time. That makes it easy for people like you and me to find examples, but it also makes it easy for the important examples to get lost in an ocean of mediocrity.

In this article, I’ve outlined a few landmark cases from the 21st century in five areas: workplaces, colleges, the Internet, advertising, and protesting. It isn’t a comprehensive list, but it’s a good jumping off point.

# Freedom of Speech in the Workplace

## Lane v. Franks -2014

When community college professor, Edward Lane, testified against a state representative who was committing fraud by putting herself on the college’s payroll without doing any actual work, he was fired for revealing information that would damage the school’s public image. *Lane v. Franks* was a benchmark case that changed the way whistleblowing was viewed. The court sided with Lane that the First Amendment *does* protect employees from the repercussions of their exercise of free speech if they’re testifying in court. (Robinson, 2014) (Sotomeyer, 2014) (U.S. Supreme Court, 2014) (Lederman, 2014) (Barnes, 2014) (Davidson, 2014).

There’s a long-standing understanding that public employees have different rights when they’re acting as employees than they do when they’re acting as citizens. An employee’s free speech is protected when they are acting as citizens (Pickering v. Board of Education) (Marshall, 1968) (Connick v. Myers) (White, 1983), but when they’re acting as an employees, their freedom of speech can sometimes be rightfully abridged. (Garcetti v. Ceballos) (Kennedy, 2006)

## Brendan Eich, Mozilla CEO – 2014

When Brendan Eich, CEO of Mozilla and creator of JavaScript scripting language, personally donated $1,000 to an anti-gay marriage group, he was forced to resign by a “wave of negativity.” (Rachel, Liedtke, & Crary, 2014) Many people believe that his personal beliefs should not affect his professional career, but there’s a long-standing precedent for personal lives effecting professional lives. Some states, such as New York, prohibit firing employees on the basis of their political belief, but in reality, many workers lose jobs over their exercise of free speech in their own personal lives. This often happens on social media sites, a teenager was fired for posting on facebook that her job was boring (Levy, 2009), a mental facility worker was fired for calling his graveyard shift “spooky” (Kearney, 2011), and a teacher was forced to resign after a picture was found on facebook of her holding a glass of wine (IOL, 2011). Lewis Maltby, president of the National Workrights Institute, says “There is no clear line. The line is whatever offends your boss or the CEO” (Rachel, Liedtke, & Crary, 2014). This is a perfect example of how social disapprobation can limit a person’s free speech, even when the law doesn’t.

# Freedom of Speech at College

## Racism at College 2014

In a small dorm party, students used “racially charged language” when a black student named his team “Team [N-word]” and engaged another student in a running joke using the phrase “white power.” The students were punished, even though it was a private party, because another student overheard them and reported them, leading to reprimands on their record and a 5-19 month probationary period. Even though Lewis & Clark is a private college and isn’t bound by First Amendment protections (unlike public colleges), their freedom of expression agreement gives students the freedom to discuss any idea and opinion publicly or privately. (Hammond, 2014)

## Constitutions at College 2013-14

Several students have been asked to stop handing out US Constitutions on public campuses (FIRE, 2014) (Reilly, 2014) (Lukianoff, 2013), even though free speech is a constitutional right under the First Amendment on public campuses (National Coalition Against Censorship, 2014) (Lukianoff, 2013). The Huffington Post reports that 59% of colleges unconstitutionally restrict free speech on campus (Kingkade, 2014). Unfortunately, censorship often stretches beyond the extent of the law.

## Preaching at College 2014

A student at Thomas Nelson Community College was told he had to stop talking to his peers about his Christian faith. According to the resulting lawsuit, “[He] didn’t block anyone’s path, carry a sign, or use ‘inflammatory’ language, but ‘merely spoke, using his unaided voice.’” (Dujardin, 2014) This is sadly just one of many examples of how free speech is often limited outside of the realm of the First and Fourteenth Amendments.

# Freedom of Speech Online

## Threats

In order to be reprehensible, threats have to be a “true threat” as opposed to fiction or hyperbole, according to Watts v. United States (Warren Court, 1969). A “true threat” consists of “statements where the speaker means to communicate a serious expression of intent to commit an act of unlawful violence to a particular individual or group of individuals.” (Gallagos, 2014) It’s worth noting that the speaker doesn’t need to intend to carry out their threat for it to be a “true threat.” In Virginia v. Black (2003), the Supreme Court ruled that cross burning wasn’t a true threat in and of itself because it didn’t target a specific group (The Supreme Court of Virginia, 2003). In 2013, when an 18-year-old, in a conversation about the video game League of Legends, made reference to shooting up a kindergarten and “eat[ing] the beating heart of one of them,” followed by “lol” and “jk”, the police were called (Crabtree, 2013). The question is whether his joke is protected under the First Amendment, or whether his threat can be regarded as a “true threat.” Thanks to a zero-tolerance policy on so-called “terroristic threats,” he was arrested and jailed for 4 months before an anonymous donor paid his half-million-dollar bail (Burnham, 2013).

## Copyright Law

In MGM Studios v. Grokster (2005), it was ruled that not only could copyrighted materials not be illegally shared over the internet, but technology couldn’t be created with the intent to allow others to illegally share copyrighted material (Oyez, 2005), even though there are exceptions to the general rule. For example, when Google allowed users to access copyrighted works through cached information, the courts sided with Google in 2006 that they weren’t at fault, even though the users accessed copyrighted materials through Google’s search engine. (Stim, 2010) (Jones, 2006)

## Anonymity

The Supreme Court has upheld that internet users do have a right to anonymity (Electronic Frontier Foundation), but that if there is substantial evidence that an anonymous user has committed unlawful activity, or if they’re useful as a witness in a case, their identity can be uncovered (Digital Media Law Project, 2010). See a treasure trove of examples here: http://www.dmlp.org/legal-guide/legal-protections-anonymous-speech.

# Freedom of Speech in Advertising

## Lorillard Tobacco v. Reilly – 2001

Two for one! When a tobacco company filed a lawsuit to lift restrictions on advertising, the court made two decisions: that the law prohibiting tobacco advertisements within 1,000 feet of schools or playgrounds was unconstitutional and that the FCLAA, the organization that regulates cigarette advertisements/warnings, didn’t have the authority to make regulations like that. Although that’s typically what the case is remembered for, the court also found that regulations prohibiting indoor advertisements lower than 5 feet from the ground *was* constitutional. (The Oyez Project at IIT Chicago-Kent College of Law, 2014)

# Freedom of Speech in Protesting

## Snyder v. Phelps – 2011

When a family of a marine killed in action filed a lawsuit against Westboro Baptist Church who was protesting the funeral holding signs such as “thank God for dead soldiers” that were designed to inflict emotional harm on the family, a District Judge sided with the family that Westboro Baptist Church’s speech was defaming and intentionally harmful, therefore not protected under the First and Fourteenth Amendment. However, the Supreme Court later overturned that decision and ruled 8-1 that Westboro Baptist Church was protected by the First and Fourteenth Amendment. (The Oyez Project at IIT Chicago-Kent College of Law, 2011)

# The Source of Legitimate Argumentation

Debate’s a tricky animal, because you’re being handed a topic, told to either affirm or negate it, and made to set to work finding out *why* it’s both right and wrong. That’s the opposite order from how your everyday argument should look: a natural extension from your education. Argumentation is a sequence of claims and warrants, and researching legitimate argumentation begins with discovering warrants. That means that you don’t find information based on what you’re trying to prove, you start by learning as much as you can about the subject, and forming your opinions based on what you find.

This can be tricky when you’re being forced to debate a certain side of the resolution, but don’t commit the fallacy of justification by thinking of a case idea *then* looking for information to back up why it’s right. Over the years, I’ve found that the more I understand about an idea, the easier it is for me to see both sides of the argument.

Legendary public speaking coach Dale Carnegie offers a tip for preparing for your speech. As you research, organize your ideas into categories. These can be as broad or specific as you want. Use your goals as a measuring stick: What are you trying to prove? What steps are necessary to prove your point? Collect as much information as possible about every argument you’re advancing. Once you feel comfortable with the information, begin to separate the wheat from the chaff. What’s the cream of the crop? What’s the very best information you have? The final result is a prima facie case that’s backed up by key pieces of information, but resting on a mountain of support. The judge will only hear the tip of the iceberg, the part of your case that you read out loud, but it’s the rest of the iceberg, the hidden support, that will allow your case to stand up to scrutiny.

Once you research your topic, your case will build itself on the knowledge you gained, and that’s where legitimate cases come from. Again, legitimate arguments always start with the reasons, never with the conclusions.

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Strategies

by Matthew Erickson, Cheyenne Ossen, & Emily Erickson

“Never start a land war in Asia, and never go against a Sicilian when death is on the line!”[[8]](#footnote-7) Strategy is everything, not only if you’re trying to rescue blonde princesses named Buttercup, but also if you’re trying to win debate rounds. There are complex strategies to being affirmative speaker in debate, and drilling them into your instinct takes a lot of practice over time. While this is by no means an exhaustive list of debate strategies, understanding these few ways to make your case impeccable and avoid common mistakes will exponentially help your debate career.

# Case Strategies

## 1. Write Your Case Like an Essay

I love essay writing because it’s so clean. Introduction, thesis statement, points 1, 2 and 3, conclusion. One problem with a lot of debaters is that they see their cases as creative writing instead of essay writing. I also love poetry and stories, but your case isn’t a story, it’s a case. You can spend six minutes reciting a poem about economic equality, but that won’t make the judge vote for it. The essay is the closest thing to a debate case in academic writing. Just like in an essay, for a debate case we need a clear thesis statement and that our paragraphs have to be explaining our thesis statement. You can do this in an eloquent or inspiring manner, but it also has to be done in a linear manner.

## 2. Spike Arguments

If you aren’t familiar with what it means to “spike arguments,” it means to bring up arguments your opponent might have and then destroy them; it “takes the rug out from under them.” If you notice an argument that most negative debaters have against your case, you’ll probably want to spike it. (This is usually done through a point of resolutional analysis, observation, or something like that.)

As always, be clear and honest in your arguments, even the ones that you’re trying to spike. I’ve seen dozens of rounds where debaters have lost because their opponent “snuck-in” a spike by calling it a value link when it really was a resolutional scope, or saying it was a measuring criterion when it was a limiting criterion (perhaps even unaware they had done so). Say what you mean, don’t try to hide things in your case to catch your opponent by surprise. This won’t only confuse your opponent, it will probably end up confusing your judge and it’s not the most ethical means of debating.

## 3. Understand Your Definitions

Understanding what you are arguing for is kind of important. (And by kind of, I mean INCREDIBLY.) Definitions are more than words we throw in the beginning of our cases for fun and take up time; they are the framework for the debate, the battleground for your argumentation. Look up every single definition for every single term in the resolution, ask yourselves, “What does this definition imply?” and choose which best fits your case. If there is an inconsistency between your case and your definitions, the negative can pull you apart in a matter of seconds.

## 4. Understand Your Applications

Research doesn’t sound like much of a strategy, but it really is. The key to never losing your applications is to knowing everything about them. You won’t be able to call out your opponent on factual errors or misrepresentations if you don’t know the whole story yourself. Read multiple accounts, bring evidence into the round, and be the expert.

# Common Mistakes

## The Mistake: Getting Defensive

Negatives have an incredibly annoying habit of bringing arguments up against your case. It’s just plain irritating. And often, they’re really good. (Have they no heart?!) This causes our emotions to overwhelm our brain and go into “defensive mode.” You’ll know what this means if you’ve ever seen an affirmative (or been that affirmative) that seems calm and collected in their first speech, then fall apart as the round goes on, begging the judge to side with them. This is from the emotions running through your body trying to pull the judge back to your side. If you view your opponent’s arguments as holes that you have to plug, your ship will sink. Don’t waste your time freaking out over the arguments that your opponent sounded really good making.

**The solution: stand your ground *on your ground.*** You’ve already defeated their arguments. You simply need to clarify to your judge how and why you have defeated their arguments. If you are convinced that your case is right (and you should be, never run a case you don’t believe in) you can convince your judge too. Focus your time on the arguments you have made and you know you can win. Confidence is everything when it comes to debate, be confident in your case. Perhaps even take a few moments of prep time simply taking a breath and a drink of water; it makes all the difference in your rebuttals.

## The Mistake: Treating All Arguments the Same

When you only have four or three minutes to respond to seven or six minutes of negative argumentation, it is easy to go into auto-pilot and shell out arguments one by one, realize your time is almost done, throw a quick conclusion in and sit down. Because affirmatives are so pressed for time, they often don’t stop to think what arguments are important and which aren’t. I’ve caught myself in the midst of debates about the difference between “Human rights” and “natural rights,” and then not focused enough on which debater actually protects those rights.

**The solution: choose your battles.** Sadly you can’t win every argument, so you should *choose to win the important ones*. The debate probably comes down to one or two assertions. If you defeat those few issues, everything else is irrelevant. If you can flow arguments against your opponent’s arguments while they’re speaking, this can free up your prep time. During prep-time try sitting and examining the flow and decide what are the key assertions the other speaker has made. The rest of the arguments should be viewed as, “wash,” or “okay to concede and weight,” but your ship will float without them.

## The Mistake: Dropping Your Theme

Time management is the absolute biggest hurdle the affirmative has to overcome. It affects everything. Six minutes is a lot of time to give a constructive speech, so most affirmatives are able to include beautiful quotations with analysis and closed with inspiring words of patriotism. The same affirmatives are the ones wheezing for breath trying to squeeze arguments into their three-minute speeches. When we get lost in the whirlwind of rebuttals, affirmatives often drop the “theme” of their case. (This is usually their value.) This makes their arguments dry and non- compelling, which can lead to a negative win by default.

**The solution: use quick, thematic tie-ins.** One of the simplest ways to tie your rebuttal in is to use quotations that re-affirm your theme. (Have a list of quotes about your value/side of the resolution prepared ahead of time.) In addition, you should be prepared to “extend” the thematic implications of arguments and applications. For example, if my value is human rights I am going to remind you in every single application where human rights were valued or undervalued and how good or terrible it was. This reminds the judge that the debate round isn’t about the Civil War and it isn’t just about Thomas Jefferson, it is about human rights.

## The Mistake: Overdoing Signposting

Signposting is an essential part of refutation because it allows your judge to know what arguments you’re referring to. While we all should signpost effectively, many debaters go too far and waste entire minutes of their speeches with, “He said, and then I said, and then he said, and now I say…” This is probably the biggest time waster in all of debate. Be clear, but also be concise in your signposting, you’ll be surprised how much time it saves you.

**The solution: make it about the big picture.** Instead of getting lost in the “he said, she said,” just remind your judge the debate is about bigger issues. “In response to their value of,” “Against their argument that freedom is bad my response is,” “My response to their second contention is.” Don’t sum up the entire round for your judge, just remind them where you are and what it is about.

## The Mistake: Half-Dropping Arguments

It can be very strategic to group arguments together when they’re about the same thing. However, I can’t tell you how many times I’ve heard affirmatives end their speech with, “And you can just cross-apply this” to try and convince their judge they haven’t dropped the arguments. This isn’t actual debate, its laziness or bad time management.

**The solution: briefly explain (and impact) the cross-application.** You see, even the claim “You can cross apply my argument,” is an argument. You need a warrant for that claim! Instead of saying, “You can just cross-apply,” tell your judge *why* it cross applies. For example, “You can cross apply this to their second contention because they both assume that freedom of speech is intrinsically good.” It takes up two seconds and makes your arguments valid.

# Conclusion

Wesley didn’t save Princess Buttercup because he was fast and strong, but because he had impeccable strategy. (Yes, I just referenced the Princess Bride twice in one article.) In the same way, it won’t matter how intellectual you are if you don’t have strategic tools to enable you to win debate rounds. Be as ethical and polite as possible in your strategies, but use them!

Logical Chronology

by Travis Herche

Traditional debate advice suggests the following approach to the Negative Constructive (NC): lower your head, read the script exactly as written, look up, gasp for air, and go over the affirmative case with whatever time you have left.

While that approach occasionally works, it usually shows serious weaknesses. The biggest weakness lies in something called logical chronology – *the idea that arguments should be presented in logical order*. In the same way that an instruction manual is confusing if you start reading in the middle, a negative constructive is confusing if you get to your contentions without handling your opponent’s framework.

You should have a negative constructive script, but remember: it’s just there to make your presentation as smooth as possible. It works for you, not the other way around. If you want to excel on the negative, you need to be able to adapt your plan of attack to every single round.

The order in which you present your arguments matters. Here’s how to present them for maximum impact.

# 1. Opponent’s Pre-value

“Pre-value” means any arguments that are presented before the value. These include definitions, resolutional analyses, and meta-frameworks. Early on this year, pre-value arguments won’t be a big deal, but some cases will emerge in the spring that rely heavily on them.

The obvious question that needs an answer before you present anything in your case is: do you agree with how your opponent has designed the debate? If you don’t – for example, if you want to reject his resolutional analysis or replace a definition – do that right away.

Your opponent’s pre-value comes first in the negative constructive because it impacts everything else you say in the round. It’s the elephant in the room. Get to it as soon as your introduction is over.

Typically, this step just involves saying: “I accept my opponent’s definitions.”

# 2. Your Pre-value

Before you get to your value, say anything you’ve prepared that comes before it. Whereas you’ll have stepped off script to cover your opponent’s pre-value, you can usually deliver your own pre-value arguments right off the negative constructive script you’ve prepared.

Typically this step is skipped. Only cover this if you have a case that has some pre-value advocacy, like a resolutional analysis. If you’re not sure what that means or how to use it, no problem! Move right along to the next point.

# 3. Your Framework

“Framework” describes the way you want the judge to measure, or look at the round. Typically, a negative framework is just a value and a “reason to prefer” or two. Some frameworks can get elaborate, with criteria and value links and the like. Whatever you have prepared, present it now. You should have a few reasons to prefer for your value pre-scripted, but remember to always adapt your arguments based on what you’re up against. If your opponent runs the value of life and you run human rights, your reason to prefer should be “Exhaustive, not Intrinsically Good.”

If you accept your opponent’s framework, just acknowledge that and jump to step five.

# 4. Opponent’s Framework

If your opponent didn’t present any value links – sub points explaining why the judge should use the value – your job is easy. You’re now the only person in the round with a logically supported framework. The rest of the round should be smooth sailing to an easy victory.

If your opponent did run value links, you need to deal with them right away. If you move on to your contentions, the value links will be nagging in the back of the judge’s mind. He’ll be wondering if he needs to care about your contentions at all. Don’t put yourself in that position. Make sure that you’ve said everything you need to say about the framework before you move on. Make sure that the judge is completely on your side without reservation.

This one change to your negative constructive will have a huge impact on your persuasive power. Expect to see ballots that discuss your contentions and applications more, and expect to win value clashes more often because you handled things so clearly.

# 5. Your Contentions

Work through your contentions, trusting your script unless you’re short on time. When you finish, you should have no more than 90 seconds left in the NC. You’ve already handled the most pressing affirmative arguments; if you spend more than 90 seconds on what’s left, you’re signaling to the judge that your case isn’t the most important.

# 6. Opponent’s Contentions

If you have a value-centric case, you should be able to handle the contentions by explaining that they don’t matter anymore (because they don’t relate to your value). If not, you’ll have to go into a bit more depth with specific responses and application analysis. Either way, move quickly through this phase and cross-apply as much as possible. Because you saved this part for last, you can fall back on the things you already explained to make it easier.

If you have a pre-scripted conclusion, deliver it at the end. If not, just say “thank you,” and you’re done! The judge heard everything in logically chronological order, which made her understand it better and trust you more. Why are your opponent’s applications outweighed? Because of your applications, which came first. Why do your opponent’s contentions have no impact? Because of your value, which came first.

This approach to negative constructive looks a little complex on paper, but it won’t feel like a big change in practice. Be diligent about signposting and tagging your arguments and your judge will not get lost. Give it a try in practice rounds with your club. You’ll be surprised how quickly it becomes second nature. Later, you’ll be surprised by how many negative rounds you won.

Part II: Affirmative Cases

“Your Right to Say it”

Affirmative Case: Human Dignity

by Emily Erickson

# Introduction

Evelyn Beatrice Hall claimed that, “I disapprove of what you say, but I will defend to the death your right to say it.” [[9]](#footnote-8) Because I believe that the core of humanity and natural law is the belief that we all have the right to say what we believe, I uphold today’s resolution: *When in conflict, an individual’s freedom of speech should be valued above community’s moral standards.* This is because freedom of speech preserves the dignity, the worth that every person deserves as a moral agent, a part of the political arena, and an essential, unique part of society.

# Definitions

**Freedom of Speech**: The right of people to express their opinions publicly without governmental interference, subject to the laws against libel, incitement to violence or rebellion, etc. [[10]](#footnote-9)

**Community:** a group of people who live in the same area (such as a city, town, or neighborhood) a group of people who have the same interests, religion, race, etc. [[11]](#footnote-10)

**Moral:** Concerned with the principles of right and wrong behavior and the goodness or badness of human character.[[12]](#footnote-11)

**Standards:** A required or agreed level of quality or attainment [[13]](#footnote-12)

# Value: Human Dignity

Before we get any farther, I want to present my value in order to determine what makes ideas worth valuing when they conflict with other ideologies. Human Dignity is the respect and honor that every person deserves simply for being human.

## Value link

My value link, or reason why human dignity ought to be used in order to weigh this resolution is that human dignity is the basis of natural law. We don’t have to look to textbooks, but simply our instinct to determine that human beings are worthy of respect because of who they are as humans. Human dignity is the thread which holds together mankind; we are all worthwhile, regardless of our race, age, background or gender.

# Contention: Valuing Freedom of Speech Respects Human Dignity

I’m aware that there are good reasons why communities have their moral standards, and they are valuable things. But today’s debate asks us which should be valued when they conflict, the beliefs of the community, or the individual’s right to speak. Because respect for a person’s individual beliefs and right to hold and express those beliefs is essential, we must choose to value freedom of speech in those specific situations of conflict.

There are three different sub-points where we can see this to be true:

# Sub-point 1: Moral Conscience

There are thousands of different religions around the world. Obviously, everyone who holds a set of beliefs thinks that they are true. Unfortunately, many communities have demanded that everyone in that area profess the same set of beliefs or be silenced.

## Application 1: The Reformation

During the reformation a man named Martin Luther was one of the first to speak out against different practices of the Catholic Church. He was excommunicated for speaking out and publishing his beliefs and even faced possible execution. Bravely he said that, “To go against conscience is neither right nor safe, I can do no other—here I stand.”[[14]](#footnote-13) The wave of freedom that followed the reformation recognized that we, as human beings, are not accountable to the state for believing in Jesus Christ, Purgatory, Muhammad, Allah or anything else. That is a matter between us and God alone.

## Application 2: Blasphemy Laws

The tragedy of the state trying to take on the role of God certainly didn’t end with the reformation. Throughout dozens of countries in the world today you risk your life if you dare commit blasphemy. Almost the entire Middle East demands that you respect Islam or die. There is no freedom of speech and Christians, Jews, Buddhists and Atheists face strict persecution. The human dignity of these individuals is completely discarded. These communities refuse to think anyone but people who believe as they do are valuable or worthy of respect as a moral agent, and that is just plain wrong. However, in countries like the United States, where you are allowed to profess whatever faith you hold the ability of every human being to be loyal to their conscience protects their sacred worth.

# Sub-point 2: The Political Arena

Not everyone wants to participate in politics. Some of my best friends will fall asleep if you start talking about politics of any nature. However, it is essential for every person to be allowed to have a voice in politics, even if their opinion is contrary to the voice of culture at the time.

## Application 3: The Sedition Act

This act was passed in 1798 by President John Adams. During this vital time in our nation’s history, the Federalists decided that their ideas were the only ones that would save the nation. Thus, they banned any speech which contradicted Federalist ideals because it was considered a “dangerous” political idea. They believed it was wrong and dangerous for opposition to speak out or publish material. Republican reporters were sued and silenced until Thomas Jefferson became president and pardoned them all. This is more than an ironic piece of history. This is a lesson that shows us that we must allow different opinions to have a voice in politics, not only do they bring valuable truth to the political arena, they should be included because they are intrinsically valuable regardless of what party they’re affiliated with. This was true then and it was true during the Women’s Right’s Movement and the Civil Rights Movement. People are people and deserve to be a voice in their community, not silenced because the community believes they are wrong.

# Sub-point 3: Society as a whole

Human dignity is not only preserved by upholding freedom of speech religiously and politically. There are other areas of society where we should be free to speak our mind as well. Every individual ought to be free to speak their opinions like in those moments we cherish sitting around the dinner table, chatting at the coffee shop, attending rallies or board meetings. While today we appreciate the ability to throw around ideas, the opposite was true during the 16th and 17th centuries when the church-state controlled what people could say about pretty much anything, including science.

## Application 4: Galileo

Galileo Galilea was one of the scientists to first believe in heliocentrism, which is the idea that the sun is the center of the galaxy. While this is common knowledge today, back then people believed that the earth was the center of the galaxy, backing up their claims with passages of scripture. For Galileo to claim that the earth was not the center of the galaxy was heretical, immoral, and he was tried by Inquisition. His works were banned and he remained on house arrest for the rest of his life. Eventually, truth came out in the end, and he was right about heliocentrism. Unfortunately, one of the world’s greatest minds was thrust out of society and imprisoned in his home simply because he advocated an idea that the community disagreed with. Denying people the right to speak as they believe denies the essential role that they play as a part of society.

# Conclusion

We cannot silence the voices of the misled or of the brilliant. We are all human beings. We all have a say as a moral agent, as a part of the political arena, and an essential puzzle piece of society. “I (may) disapprove of what you say, but I will defend to the death your right to say it.”

Negative Brief: Human Dignity

The crux of this case is that conflict between freedom of speech and community moral standards come down to whether or not to silence the opposition in cases on conflict. If you debate with that premise, you will lose every time. By challenging it and giving yourself a bit more ground, you will have a lot more success.

Start out by giving your definition of value. The affirmative omits it here, but it’s crucial because “value” is the verb or action the resolution says should be taken when the described conflict takes place. The affirmative de facto defines value as to prefer to the exclusion of conflicting values. This is not necessarily the case. If you define value as something like “to prefer” or to “more highly esteem”, negating the resolution is a lot easier, because you don’t have to say that freedom of speech should be disallowed, simply that it isn’t given the same deference.

Secondly, point out that the definition of freedom of speech the affirmative gave doesn’t state that freedom of speech is “automatically” limited to disallow libel and incitement to violence and rebellion. It simply says that it is subject to these types of limitations. Some affirmatives will try to say that freedom of speech doesn’t mean the ability to use our words for ill. That is not the case. It intrinsically includes the possibility for abuse, but most major thinkers and governments have chosen to limit it. Don’t let the affirmative tell you freedom of speech is perfect.

One argument you can make against all of the applications utilizes the definition argument you (should have) made about the word value. Argue that valuing a community’s moral standards above freedom of speech doesn’t mean ending freedom of speech, it simply means being more concerned with what should be said than what can be said. You can turn this on the affirmative and say that for the resolution to be true, the affirmative must prove that in every instance, we should be more concerned with what we are allowed to say than what the community says we ought to say.

Lastly, the affirmative’s applications almost always show a conflict between a community’s legal standards and freedom of speech, not a conflict between moral standards as such. Moral standards are usually meant to mean what the community would like you to do. They become a legal standard when the government starts enforcing them. A true conflict between moral standards and freedom of speech would come down to a difference of opinion. Once we talk about getting the government involved, we’re outside the resolution. Even if the judge seems skeptical of this argument at first, your opponent will likely be very worried about it and spend way too much time refuting it and not your case.

“Aesop didn’t get Thrown off a Cliff so You Could Vote Negative”

Affirmative Case: Value Ideological Progress, Criteria of Freedom of Censorship

by Noah Gray

# Introduction

George Bernard Shaw once said that “[if history repeats itself, and the unexpected always happens, how incapable must man be of learning from experience.](http://www.brainyquote.com/quotes/quotes/g/georgebern163236.html)“ You and I have a tremendous opportunity because we have access to more information than any other generation in history has ever had. With five thousand years of recorded history as our guide, we know what has progressed history forward, and we know what has held it back. Today I’m affirming the idea that *when in conflict, an individual’s freedom of speech should be valued above a community’s moral standards.* Because history has shown us that freedom of speech is what’s driven society’s ideological progress, I hope you’ll side with me in voting Affirmative.

# Value Analysis

The value for today’s debate is **ideological progress**, which is made up of two parts:

* First, the spread of information and ideas.
* Second, the exploration of new ideas.

Taking these two ideas together, Ideological Progress can be summed up as beingthe pursuit of education and the evolution of thought.

I think you should adopt my value today for two reasons, which you can label as value links.

## Value Link 1: Ideological progress is inherently valuable.

It is never a bad thing for society to make ideological progress, so it is a fitting goal for today’s debate.

## Value Link 2: Ideological progress is the purpose of communication.

Ideological progress is the reason we practice communication and the reason we take part in debates like this one. The fact that we’re taking part in this debate proves that we all want ideological progress.

## Criteria:

The way that we promote ideological progress is through my criterion of **freedom from censorship**. Censorship can take several forms, but the two forms of censorship we’ll be talking about today are first, government censorship, and second, self-censorship brought about by social disapprobation. Only when we’re free from both forms of censorship are we free to pursue Ideological Progress.

Before we get into my main points, I have two important observations about this debate round.

## Observation 1: Burden Scope

My opponent can’t prove that freedom of speech should NEVER be valued, and I can’t prove that it should ALWAYS be valued. Neither team is burdened with an absolute argument. Whichever one of us can prove that our argument is true as a general principle should be the one to get your vote at the end of the round.

## Observation 2: What Valuing Looks Like

My criterion of freedom from censorship gives us a simple test to see which idea is being valued: If an idea is being censored, a community’s moral standards are being valued, and if the idea is not being censored, then freedom of speech is being valued.

To summarize so far, it’s my stance that as a general principle, when freedom of speech comes into conflict with a community’s moral standards, speech should be free from censorship in order to promote ideological progress. I’ll explain all of that in my three contentions

# Contention 1: A Community’s Moral Standards are Arbitrary.

I need to make a distinction between genuine morality and a community’s moral standards. Morality is an absolute right and wrong that should guide our actions, but if history’s proven anything, it’s that communities are again and again wrong about morality. When the resolution uses the phrase “community’s moral standards,” it’s not talking about actual moral right and wrong, it’s only referring to the arbitrary beliefs of a community. I have two categories of examples to illustrate the point that a communities aren’t accurate sources of morality:

## A. Religious Oppression

Pope Francis said in in 2014 that Christians are the most persecuted religious group in the world, and that there are more Christian martyrs today than at any other point in history.[[15]](#footnote-14), [[16]](#footnote-15) You and I are privileged to live in a community that respects our freedom of religion; however, for 200 million Christians worldwide,[[17]](#footnote-16) their community’s moral standards decided to take that freedom away from them. Even here in America, our freedom is quickly disappearing. [[18]](#footnote-17), [[19]](#footnote-18), [[20]](#footnote-19), [[21]](#footnote-20)

## B. Racial Segregation and hyper segregation.

Thomas Jefferson, the man who wrote the words “all men are created equal” in our Declaration of Independence was himself a slave owner, along with nine other presidents of the United States,[[22]](#footnote-21)[and although slavery had its opponents, in some states in the nineteenth century, slaves outnumbered free white males 2 to 1][[23]](#footnote-22) Even in modern society, philosophers Douglas Massey and Nancy Denton have concluded that racism has led to hyper segregation in several metropolitan cities in the America in the modern day.[[24]](#footnote-23)

According to the Global Network for Rights and Development, on a scale from 0-100%, the United States has only a 75% respect for freedom of expression, as opposed to over 90% in countries like Norway.[[25]](#footnote-24) Clearly, our communities should not to be trusted to decide what moral standards we should live by, which leads me into my second contention.

# Contention 2. Prioritizing Arbitrary Standards Stops Ideological Progress.

## A. Communities shouldn’t chose what speech is allowed.

Since communities’ moral standards are arbitrary, people like you and me shouldn’t have our freedom of speech limited by the arbitrary feelings of a community that can so often be wrong.

## B. Giving communities control over speech leads to tyranny

Censorship quickly becomes a vicious cycle. If those with the most influence control free speech, they silence those who disagree with them, which in turn gives them even more influence, and the pattern of influence and oppression repeats. German Nazism is a perfect model of this kind of vicious cycle where those who had influence silenced those who didn’t until it reached a tyranny of ideas where only one ideology was allowed.[[26]](#footnote-25)

## C. Tyranny stops ideological progress.

When we let communities decide what we’re allowed and not allowed to say, we’re refusing to learn from the tyranny of ideas in Nazi Germany,[[27]](#footnote-26) repressed research in the Soviet Union, book burnings of the Roman Catholic Church,[[28]](#footnote-27) executions by the Ministry of Islamic Guidance in Iran[[29]](#footnote-28), and hundreds of other examples. Ideological progress can’t exist in a society where communities decide what ideas are allowed to be discussed, and which ideas are to be censored.

# Contention 3. Free Speech leads to progress.

Fortunately, this isn’t the end of our story, and we aren’t doomed to repeat the mistakes of history.

## A. Duality in public discourse has improved society.

Historically, when those in authority didn’t like an idea, they would stop the idea from being spread. Aesop was thrown off a cliff,[[30]](#footnote-29) Socrates was executed,[[31]](#footnote-30) Ovid was banished from Rome, and other authors were burned along with their books and all in the name of censorship. Meanwhile, free speech has been a driving force behind the enlightenment,[[32]](#footnote-31) colonization of America,[[33]](#footnote-32) and modern philosophy.

## B. Free Speech allows argumentation and progress.

The reason we’re gathered today is to celebrate the free expression of ideas, even when those ideas come into conflict, even when those ideas cause disagreement, and even when other people don’t like those ideas. You came here today to hear a battle of ideas, and that can only happen in a society where freedom of speech is valued above a community’s moral standards.

# Conclusion

In closing, we’re being faced with a tough question, but I think the answer is very clear. Communities’ aren’t a moral authority, and their ideas of moral standards frequently don’t line up with actual morality. The only way to achieve ideological progress is to allow the freedom to express ideas, even when they’re challenging to others. With a long history of censorship and free speech to draw from, I hope we can agree that the only solution is to vote for freedom of speech at the end of this debate.

Negative Brief: Ideological Progress

(Because contention 2 and 3 are really two sides of the same coin (Negative stops progress/Aff promotes progress), they’re addressed together in this rebuttal. You could separate out the counter-arguments to address the contentions separately, but the distinction would be arbitrary.)

## Counter-contention 1. Communities are frequently right. (Addressing contention 1)

* Example: religious communities that DON’T oppress others.
* Example: the Americans who fought to end slavery.
* Example: The activists who are fighting to end modern discrimination.

Community’s moral standards aren’t inherently right, but that doesn’t invalidate them entirely. They can still be legitimate sources of guidelines for speech. The case talks about extremist communities (Nazi Germany, Soviet Russia, etc.), but those make up a minority of communities. Most communities use reasonable moral standards centered on justice through the harm principle and offense principle.

## Counter-contention 2. Productive speech rarely conflicts with community’s moral standards. (Addressing contention 2 and 3)

* Hate Speech
* Fighting Words
* Libel/Slander

There’s a distinction between censorship in the name of ideological purity and legitimate censorship. There can be useful censorship without sacrificing the ideological value of people’s ideas.

## Contention 3. Most communities don’t want to impose their worldview. (Addressing contention 2 and 3)

The type of censorship in the case deals mostly with imposed worldviews (e.g. not being allowed to dissent), which is different from censorship that intends to protect the audience. There’s only three categories of speech, then:

1. Speech that doesn’t promote ideological progress OR conflict with reasonable community standards (useless speech, no value, but no reason to censor. The vast majority of everyday speech)
2. Speech that promotes ideological progress and doesn’t conflict with reasonable community standards (outside the resolution, no impact)
3. Speech that conflicts with reasonable community standards but doesn’t promote ideological progress (deserves to be censored, no reason to protect under value framework).

There is NOT a 4th category of speech that promotes ideological progress AND conflicts with reasonable community standards. A majority of communities welcome openness of communication and ability to dissent, the only speech that offends their moral standards is speech that’s harmful. Opinions can always be stated in a way that isn’t offensive (we can have our cake and eat it too).

Affirmative Response

(Attacks basis of counter-contentions, not necessarily a point-by-point attack or defense, meaning that after you attack the basis of the negative arguments against your case, you’ll still want to cross-apply and restate your original contentions for the judge’s flow.)

## Censorship can’t be rooted in community’s standards.

Although communities are capable of being right about moral standards, a community’s standards are still going to be arbitrary (Cross-apply Cont. 1). The basis of our censorship should be rooted in actual moral principles, not the arbitrary feeling of the community. If a community’s moral standards line up with actual moral principles, it’s incidental. We should never censor something BECAUSE of a community’s moral standards, we should censor because of actual moral principles like justice (through the Harm and Offense Principle - pull over negatives arguments), and if they line up with the community’s standards, that’s only incidental. *Censorship should not be on the basis of a community’s moral standards,* so even when we censor, it’s never because we agree that community’s moral standards should be valued above freedom of speech.

## Limiting the resolution to “reasonable” community standards is extra-resolutional.

The resolution doesn’t use the word “reasonable,” it intends for us to consider ALL community moral standards, whether they line up with what they want or not. By limiting, the negative is trying to paint the picture that communities are going to be right and that we can healthily censor on the basis of their standards, but the reality is that communities (even modern western communities) are frequently wrong (look at hyper segregation and modern Christian persecution), and as the first point addressed, the community’s standards should never be the REASON we censor. We can value some things above free speech, like justice, for example, but we should never value community’s moral standards just on the grounds that the community holds them.

## In summary

Communities aren’t necessarily wrong, just like they aren’t necessarily right. The fact that their opinions are arbitrary means that they will be right about some things and wrong about others, and it also means that it’s an unreliable source of censorship. If our legitimate censorship (based on harm and offence principles) happens to line up with the community’s standards, that’s great, but we still aren’t valuing the community’s standards over free speech, we’re valuing justice above free speech and the community’s moral standards are only coincidence.

The debate is about ideas. Although examples are great case studies of how the ideas play out in real life, the debate isn’t about examples. No matter how healthy our specific communities are, we have to remember that the resolution isn’t just asking us to consider our own communities, it’s asking us to consider community standards as a principle vs. free speech as a principle.

“The Language of Tyranny”

Affirmative Case: Anti-Value of Tyranny

by Jewel Soiland

# Introduction

Kurt Huber, a member of the German resistance movement against the Nazi party once stated, “[A state that suppresses all freedom of speech, and which by imposing the most terrible punishments, treats each and every attempt at criticism, however morally justified, and every suggestion for improvement as plotting to high treason, is a state that breaks an unwritten law.](http://www.brainyquote.com/quotes/quotes/k/kurthuber212158.html)“[[34]](#footnote-33) Shortly after making this statement, Huber was executed by the Gestapo for his participation in the resistance.[[35]](#footnote-34) Because I agree with the words that got Huber killed for, that freedom of speech is essential to maintaining a free society, I am resolved that *When in conflict, an individual’s freedom of speech should be valued above a community’s moral standards*.

# Definitions

Before we examine the resolution in depth, let’s define a few key terms:

* **Freedom of Speech:** The right to express any opinions without censorship or restraint. (Oxford)[[36]](#footnote-35)
* **Value**: relative worth, merit, or importance (Dictionary.com)[[37]](#footnote-36)
* **Community:** social group of any size whose members reside in a specific locality, share government, and often have a common cultural and historical heritage (Dictionary.com)[[38]](#footnote-37)
* **Moral Standards**: of or relating to principles of right and wrong behavior established by authority, custom, or general consent as a model or example (Combination definition from Merriam-Webster)[[39]](#footnote-38)

Using these definitions, the resolution translates that when in conflict, an individual’s right to express opinions has more worth than a group’s idea of right and wrong behavior.

# Anti-Value Analysis

While a value is something positive that we wish to view the resolution through, an “anti-value” is a negative attribute that we want to stay as far away from as possible. It is my contention that upholding a community’s moral standards above an individual’s right to freedom of speech leads to tyranny, therefore my **anti-value today will be** **tyranny**. Tyranny is defined as arbitrary or unrestrained exercise of power; despotic abuse of authority.[[40]](#footnote-39)

## Anti-Value Link 1: Tyranny Highlights the Conflict

The greatest conflict between an individual’s freedom of speech and a community’s moral standard occurs when questions of acceptance arise. Therefore tyranny, or how much control is exercised by a group in a community, provides the best clash between the two facets of the resolution.

## Anti-Value Link 2: Tyranny is Universally Abhorrent

Tyranny, the abuse of authority, is universally abhorrent. Regardless of government structure, international society recognizes that tyranny cannot be supported by any ruler due to the inherent violations of rights, which is the standard for determining value. Therefore, tyranny provides an objective view of the resolution.

Since tyranny is the clearest example of clash in the resolution and because it is an objective standard, it also provides us with the best measuring stick to determine if the resolution should be upheld. Because it avoids tyranny, an affirmative ballot will be warranted.

# Contention 1: Majority morals can promote tyranny

Within a community, a determination must be made as to what moral standard will be promoted. This will always be determined by a majority. A community cannot be characterized by the minority, because the moral standard must be the prevailing idea.

Consider the religious communities of early American history during the 17th and 18th centuries. In New England, individuals who disagreed with the prevailing doctrines of a colony received punishment.[[41]](#footnote-40) In Massachusetts, a 1646 law resulted in the punishment of persons who denied the immortality of the soul and in 1616 a Virginia governor declared the death penalty for an individual who denied the Trinity.[[42]](#footnote-41) In fact, even Roger Williams, who suggested areas of improvement for the Massachusetts Bay Colony was banished in 1635.[[43]](#footnote-42) The community’s moral standards were held superior to an individual’s free speech, but that moral standard resulted in majority tyranny, where power was arbitrarily exercised unjustly, resulting in the violation of rights.

# Contention 2: Free Speech Prevents Tyranny

Free speech prevents tyranny because it ensures that a majority cannot arbitrarily dictate what ideas are respected. By valuing liberty over majority control, justice is preserved and no individual is unfairly punished.

Consider the Tiananmen Square Massacre in 1989 when thousands of demonstrators for democracy peacefully occupied the center of Beijing, China. Suddenly, after weeks of occupation, communist government soldiers opened fire on the throngs of students and civilians, killing thousands. The following morning, the government proclaimed a great victory over a “counterrevolutionary insurrection.”[[44]](#footnote-43) Valuing the community’s moral standard over freedom of speech cost the lives of thousands of Chinese people that horrific day. Tyranny is most evident when opposing ideas are punished so severely and the ability to express opinions is prohibited.

China, however, is not the only nation to oppress free speech. In 2012, Pastor Saeed Abedini, while in Iran to build an orphanage, was pulled off a bus and imprisoned for his Christian faith.[[45]](#footnote-44) Recently, his regular beatings led to his entrance into a hospital, only to be dragged out two months later and beaten again until he collapsed on the floor.[[46]](#footnote-45) His story, sadly, is not alone. Christians are arrested, beaten, tortured, and starved, for their faith in countries around the world. When a community can dictate acceptable points of contention and appropriate subjects of discourse, that community is abusing its power.

Do you recall Kurt Huber, who I mentioned at the beginning of my case? Huber, executed for speaking out against the mass murders of innocent people, is yet another instance of tyranny destroying the lives of those who would exercise free speech. The majority in any community cannot be allowed to arbitrarily determine what rights are respected – that only leads to oppression. Freedom of speech safeguards against majority tyranny be protecting the individual’s liberty.

# Conclusion

In order to maintain a free society that respects rights, promotes justice, and that recognizes abuses of power, we cannot support a system of tyranny. Tyranny results in the violation of rights and the abuses of power which led to the unjust execution of Kurt Huber in 1943. Free speech protects those basic rights by avoiding tyranny and upholding a system where every individual has the right to believe in something.

Negative Brief: Anti-Value of Tyranny

This case is built upon the assumption that value is based on rights. Anything that harms rights is not valuable whereas something that protects or upholds them is automatically valuable. Central to defeating the premise of the case is refuting this main principle. Who says rights are the only thing that gives an idea worth? Can’t other things give value?

Another interesting facet of the case is the fact that it’s an anti-value instead of the usual (and totally overused) value. Since there isn’t a convincing argument for tyranny being a beneficial style for government, accepting the anti-value is probably the best tactic. This, however, means that applications will be crucial to proving that the negative side does not equal tyranny.

The next point is that you have to run counter applications. Especially if you accept the anti-value, you have to prove that a community’s moral standards won’t result in tyranny of the minority.

One of the main ideas discussed is that a community’s moral standards are dictated by the majority i.e. majority rule. You have to either say that majority rule is good, or that it isn’t always the majority that determines the moral standard of a community. What else does moral standard imply? Can’t a minority rule over a community and determine the moral standard by laws, punishment, or enforcement? Who says what group of people is in control?

Regarding the application of China, you can attack the idea of majority control and argue that the people of China, just like in nations like North Korea, while brainwashed from birth, don’t exactly agree with murdering innocent people. Remember that for it to be a community’s moral standard, it has to be the majority that agree with it according to the case philosophy. The majority of people in China are harmed by the system. Is it really the *community’s* moral standard or is it the *government’s* moral standard?

Kurt Huber, aside from being one of those super cliché Nazi applications, is an illustration during war. Obviously they’re going to murder him if he disagrees because they’re in the middle of trying to conquer the world. It’s not as applicable of an application because of the fact that war leads to any number of exceptions.

“Using the Right ‘Right’”

Affirmative Case: Property Rights

by Zack Seals

# Introduction

In an effort to summarize the controversial words spoken in her writing career, the civil rights activist Audre Lorde once said “My silences had not protected me. Your silence will not protect you.” [[47]](#footnote-46)It is because I agree that in cases of moral reform speech is essential for revision that I stand *Resolved: When in conflict, an individual’s freedom of speech should be valued above a community’s moral standards.*

# Definitions

For the purposes of clarity in the following debate round the terms of the resolution will be defined as follows:

* **Freedom of speech:** Operationally defined- The right to express any view in written or verbal language free of governmental sanction, provided it does not create an undue material risk to others
* **Communities moral standards:** Operationally defined as- The standards of a group of people on a moral issue that has been expressed in law.

# Resolutional Analysis

Let’s begin with a few points of clarification on how I believe the resolution should be interpreted.

## 1. Freedom of Speech is amoral

Freedom of speech needs to be viewed as inherently amoral rather than moral. If freedom of speech were to be viewed as an intrinsic moral “good” in today’s resolution then it could simply be included in a community’s moral standards and no conflict would be possible. As distinguished Law Professor Stanley Fish once said “speech, in short, is never a value in and of itself but is always produced within the precincts of some assumed conception of the good” [[48]](#footnote-47)

Due to this, freedom of speech will be viewed as something with great utility that allows for other values to be expressed in important ways much like a tool that can accomplish many jobs. That is to say it functional rather than moral “value”.

This being the case, why should we ever choose freedom of speech rather than the commonly held moral consensus of the community? To answer this we need a value or weighing mechanism which will tell us how to compare the two in each particular case.

# Value Analysis

The value I will be upholding in this case will be **property rights**.Property rights are defined by John Locke as ““Everyone has property in his own person, nobody has any right to but himself. The labor of his body, and the work of his hands, we may say, are properly his”. [[49]](#footnote-48) We can see that property rights is not only the right to own things as we typically think of it, it also is the right to your own person , known as self-ownership.

This concept of self-ownership is crucial for a morally improving society. Perhaps philosopher Ayn Rand once explained it best, “The right to life is the source of all rights—and the right to property is their only implementation. Since man has to sustain his life by his own effort, the man who has no right to the product of his effort has no means to sustain his life. The man who produces while others dispose of his product is a slave.”[[50]](#footnote-49) It can herein be seen how a valuing of property rights is the only way freedom of speech can be obtained.

## Value Link 1: Property Rights Enables Freedom of Speech

Freedom of speech is different than other free actions. The key here is prevention. While the government can limit your freedom to ride a bicycle by removing all of them from the country by ban, it can’t prevent you from speaking certain things. The most they can do is punish you *after* such an action has already taken place. This is because although the government can *prevent* you from ever owning a bicycle and therefore limit your freedom to do so it can never *prevent* you from speaking certain things due to your property rights. Although, if you had no property rights, the government would be able to pass laws that could physically prevent you from saying certain illegal crimes. What this shows is that it is specifically because we are able to own ourselves that Freedom of Speech is possible.

# Contention 1: Freedom of Speech Improves a Community’s Moral Standards

Think about it. By what manner of action do we defend the foundations of a moral society? How is it that we address those who actively harm and oppress our rights? While it can be said that actions speak louder than words, I would argue that actions alone have no significance unless meaning is ascribed to them by the context of what has been said. Just try and imagine the incredible efforts made by those who fought in the American Revolution without the prior statement of the Declaration of Independence followed by our Constitution. Or what would the American Civil Rights Movement had been without the powerful speeches delivered by the one and only Martin Luther King Jr? In both of these cases the speeches had to go against the community’s moral standards in order to bring reform. They also both arise out of a struggle for self-ownership on the national and individual level.

# Contention 2: Freedom of Speech Can’t Improve a Community’s Moral Standards When It’s Limited by Them

This point, it seems, is quite evidently true. Think of the great William Wilberforce and his speeches against British slavery. Would he have been able to deliver his numerous speeches against slavery to a Parliament that could limit what he was allowed to speak on based on their already set moral approval of slavery? Or what of the modern day censorship of journalists in China? The Council On Foreign Relations reported early in February of 2014 that, “In one [high-profile incident](http://www.washingtonpost.com/world/asia_pacific/chinese-journalists-mount-rare-protest-over-an-act-of-government-censorship/2013/01/04/34bafe40-5688-11e2-89de-76c1c54b1418_story.html) involving liberal Guangdong magazine *Southern Weekly*, government censors rewrote the paper’s New Year’s message from a call for reform to a tribute to the Communist Party”[[51]](#footnote-50). Paul Mooney, another Chinese reporter, stated in an extensive report on the state of journalism in China that “The government is particularly keen on blocking reports of issues that could incite social unrest, like official corruption and ethnic strife. The websites of *Bloomberg* and the *New York Times* were blacked out in 2012 after [each ran reports](http://www.newyorker.com/online/blogs/evanosnos/2012/10/the-fallout-from-wen-jiabaos-family-fortune.html) on the private wealth of Party Secretary Xi Jinping.”[[52]](#footnote-51) The only way a true moral and societal improvement is possible in China is if the journalism restrictions are lifted to free the speech of the writers reporting.

# Conclusion

In summary then, it follows quite logically that if freedom of speech is the most effective way to improve a community’s moral standards and if freedom of speech can’t improve a community’s moral standards when it’s limited by them, then freedom of speech should not be limited by a community moral standards.

Negative Brief: Property Rights

## Definitions: 1. Freedom of Speech

This definition has been crafted to be self-limiting according to the Harm Principle (the idea that the actions of individuals should only be limited in order to prevent harm to another person). Essentially, the affirmative will argue that this excludes hate speech due to the “material risk” exception in the definition. The key issue here, of course, is the preceding word “undue”. Who or what determines what is “undue” material risk? Not only does this allow for a significant ambiguity, but it now requires an additional judgment claim to determine what “undue material risk” is.

Affirmative may respond with their already established value of property rights. This would be problematic because the case argues that property rights is a precondition for freedom of speech. That is to say the affirmative value generates the existence and necessity for freedom of speech, but has no claim to limit it. The affirmative needs to do more than assert that freedom is self-limiting without justification and the negative would do well to point this out.

## Value: Property Rights

It’s crucial to understand the relationship this affirmative is claiming the value has to freedom of speech. In the explanation that was provided it was admitted that due to the inherently moral nature of property rights they may, and you can point out “should”, be a part of a community’s moral standards. This creates the possibility for an amoral right to be at odds with the community. This is what gives the affirmative strength to speak of moral reform needing freedom of speech in societies that don’t respect property rights. While this logical connection is sound it opens the door for criticism on another level. What about the countries that already respect property rights? It is quite obvious in places like China or Korea a greater respect for property rights is needed to generate an appropriate view of freedom of speech. This is not quite so clear in other countries that do respect self-ownership and property rights. Indeed, it is difficult to see how property rights as the standard would be helpful in determining the appropriate line between freedom of speech and a community’s moral standards on issues like libel, perjury, and hate speech. If freedom of speech isn’t self-limiting, and as pointed out above the cases simply assumes it is without argument, then what are the limits where it is appropriately allowed to extend? Certainly not property rights for it has already been agreed that property rights merely create freedom of speech, it can’t limit it. Herein we find in order to gain the strength of arguing the necessity of freedom of speech for moral reform, the affirmative has sacrificed the ability to weigh in on applications that already have a respect of property rights. There are a number of countries that do not face this need for moral reform in respecting property rights. Bring this out and show how ill equipped an affirmative’s value will be to handle these issues.

## Contentions

The contentions follow logically, but rest on the unstated assumption that “cases of societal moral reform are the only ones that need to be observed”. How does one address the issues other countries that already have a respect for property rights are having with freedom of speech? How would property rights determine the case of a man wanting to speak of his faith in a line at the post office? How would property rights determine the case of citizens who wish to “willfully” speak against the ruling authorities? The connection isn’t nearly as clear and needs to be pointed out.

Part III:   
Negative Cases

“Loose Lips Sink Ships”

Negative Case: Safety

by Phillip Allevato

# Introduction

“When questioned, I am required to give name, rank, service number, and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.”***[[53]](#footnote-52)***

This excerpt from the US Code of Conduct sums up the heart of this debate. No one ought, by speech, to endanger his comrades or others. That is why I stand opposed to the resolution, that *when in conflict, an individual’s freedom of speech should be valued above a community’s moral standards.*

# Definitions

Before we go further, it is important that we have definitions for the key terms of the resolution.

* **Conflict:** “a state of opposition between ideas, interests, etc; disagreement or controversy.”[[54]](#footnote-53)
* **Individual:** “of, relating to, characteristic of, or meant for a single person or thing.”[[55]](#footnote-54)
* **Community:** “a group of people having cultural, religious, ethnic, or other characteristics in common.”[[56]](#footnote-55)
* **Freedom of Speech:** “The right to express any opinions without censorship or restraint.”[[57]](#footnote-56)

**Moral:** “Concerned with the principles of right and wrong behavior and the goodness or badness of human character.”[[58]](#footnote-57)

# Value: Safety

One of the most clear cut cases of conflict between freedom of speech and community moral standards comes in regard to safety. Therefore, I believe that **Safety** is the best value to measure the resolution. Safety is defined as: “freedom from danger or risk of injury.”[[59]](#footnote-58) If curbing freedom of speech promotes personal and national safety, then community moral standards will have been shown to be superior, and the resolution is false.

## Value Link: Standard

Safety is an integral part of every community, culture, and society. Endangering others is always considered morally wrong. Even here in America, where individualism and freedom are held at a premium, there is still a clear taboo upon harming others, and destroying or devaluing their safety and security. Thus, Safety is a bright line when it comes to measuring community moral standards against an individual’s freedom of speech.

# Contention 1: Free Speech Endangers Individuals

Whether willful or not, the simple fact is that unlimited freedom can cause harm to others. Take the example of laws that prohibit inciting to riot. Under US law, it is illegal “to incite a riot; or to organize, promote, encourage, participate in, or carry on a riot;”[[60]](#footnote-59) A riot is a public disturbance involving an act of violence by one or more persons assembled in a group of at least three people. Inciting a riot applies to a person who organizes, encourages, or participates in a riot. It can apply to one who urges or instigates others to riot. There is no doubt that rioting causes harm, to the government, participants, and bystanders as well.

To be specific, we have what is known as La Violencia in Columbia. From 1946 to 1964, experts estimate that over 200,000 people have been killed as a result of riots, both citizens and government supporters.[[61]](#footnote-60) Certain instances, such as promoting riots, absolutely endangers individual’s safety and must be curbed. Here in America, we hold on to our freedoms tightly, and don’t want to let them go, but sometimes we have to. It isn’t always a nice thing to say or do, but it is necessary to keep people safe. As the saying goes, “Safety may get old, but so do those who practice it.”

# Contention 2: Free Speech Endangers the Nation

Unlimited freedom of speech can interfere with the safety of the country on a large scale as well, not just on the individual level. An example of this can be seen with the 1919 Supreme Court Case of Schenck v. United States. Charles Schenck was a member of the Socialist Party, and during World War I distributed over 15,000 pamphlets urging individuals to resist the draft and to harm the war effort in any way they could. He was convicted on a 9-0 decision, the court finding him guilty of endangering others, and deeming that free speech could be limited to protect many. Justice Oliver Wendell Holmes stated in his ruling, “The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger.”[[62]](#footnote-61) Therefore, if speech endangers others, it should no longer be free.

A more recent example can be seen with the case of Edward Snowden, an NSA agent who leaked government secrets to other countries. According to former ambassador John Bolton: “Edward Snowden’s leaks are a grave threat to US national security”.[[63]](#footnote-62) His information put forth specifics of US intelligence techniques in other countries and gave vital secrets to nations such as China and Russia. Some may say that Snowden was a hero for his actions. However, his choice of allies – namely, Russia, China, and Cuba – says otherwise.

In the same vein are the memoirs of Philip Agee, a CIA agent who revealed the names and locations of CIA operatives stationed internationally. He was widely condemned for the action and was banned from multiple countries for insurgence. This directly led to the Intelligence Identities Protection Act, which makes it a federal crime to reveal the identity of undercover federal agents.[[64]](#footnote-63) The adage “loose lips sink ships” comes to mind. Words spoken too freely reduce the safety of citizens and the effectiveness of our government to promote that safety.

# Conclusion

All of this supports the fact that freedom of speech can degrade safety. Every community places a premium on safety. They condemn endangering others and consider it dishonorable, immoral. Because the safety of citizens must always be protected, the resolution is false: When in conflict, community moral standards ought to be valued above freedom of speech.

Affirmative Brief: Safety

Stoa’s first resolution states: *When in conflict, an individual’s freedom of speech should be valued above a community’s moral standards*. The resolution places a greater value upon individual rights than on society’s standards. In certain situations they are both good things, but the resolution specifically asks “when in conflict.” The realm of the debate is narrowed to only cases of direct conflict, and these cases, the idea of the resolution must be negated, and community moral standards ought to be more highly valued. However, community moral standards are a bit vague and need some definition. This case makes the case for the value of safety and protection being an integral part of society and community moral standards.

Rather than just being offensive, freedom of speech can cause direct or indirect harm on a national and an individual level. In cases of conflict, freedom of speech endangers or degrades safety, and community moral standards ought to be upheld higher, proving the resolution false.

Presented in this case are arguments advocating for community standards above freedom of speech. Examples highlighting the individual level (U.S. Law, riots) as well as the national level (Supreme Court precedence, rogue operatives) are included in the contentions of the case text.

Affirmatives will most likely argue that degrading freedom of speech will harm Safety. Expression is always one of the first things to go in dictatorships. Also, the inherent worth of Safety will most likely be called into question. It may be a good thing, but is it a truly moral concept?

“The Majority’s Rules”

Negative Case: General Welfare

by Rebekah Vehrs

# Introduction

The most influential philosopher of the nineteenth century, John Stuart Mills, once stated: “The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”[[65]](#footnote-64) It is because I believe that community standards are necessary to protect the members of a society from harm that I stand in opposition of today’s resolution.

# Definitions

To help us better understand the resolution, let’s look at two definitions:

* **Freedom of Speech:** “The right to express any opinions without censorship or restraint” [[66]](#footnote-65)
* **Standards:** “Ideas about morally correct and acceptable behavior” [[67]](#footnote-66)

# Value Analysis

In order to determine the validity of today’s resolution, we must use a value, or weighing mechanism. The value that I propose is **general welfare**, which is operationally defined as “The protection of the health, peace, morals, and safety of a society and its members.” There is one main **reason to prefer** my value:

## General Welfare is foundational for society.

Protecting peace, health, safety, and morality is crucial for a culture to survive and thrive. Look to any faltering society today: Sudan, Syria, the Central African Republic. General welfare is not being upheld in these societies, and the cost is detrimental to those living there.

# Contention 1: Unrestrained Speech Violates General Welfare

When an individual is granted unlimited freedom over what they say, general welfare is endangered. Look at the examples of verbal harassment and hate speech. In both instances, the free speech of an individual is used to harm another individual’s mental or physical well-being, by attacking them on the basis of their gender, religion, race, etc. Such freedom leads to a propensity for violence committed by both the perpetrator and the victim. These acts of violence can range from self-harm to aggression towards the other party involved, or even unwarranted violence towards innocent people, which results in a violation of general welfare. Not only can unbridled speech be directed at and harm individuals, but it can also be used against whole groups or races. This is demonstrated in the …

## Application: Genocide Denial

Genocide denial occurs when an act of [genocide](http://www.wikipedia.org/wiki/Genocide) is met with attempts to deny the occurrence or minimize the scale or death toll.[[68]](#footnote-67) Individuals use their freedom of speech to directly violate the moral standards of a community by refuting the heinous acts of inhumanity that have been committed against specific people groups. This further adds to the suffering of survivors by either trivializing mass murder, or telling the victims that their afflictions were imaginary.[[69]](#footnote-68) Not only can this cause bloodshed between those denying genocide and those that have survived genocide,[[70]](#footnote-69) but it also encourages future violence by seeking to minimize the most debase of actions: the mass murder of millions. Dr. Gregory Stanton, president of the International Association of Genocide Scholars, states, “Studies by genocide scholars prove that the single best predictor of future genocide is denial of a past genocide.”[[71]](#footnote-70) When freedom of speech goes unchecked by a community’s moral standards, general welfare and morality itself is put into jeopardy.

# Contention 2: Moral Standards Uphold General Welfare

A community’s moral standards are what provide a safeguard for their well-being. The resolution is not asking us to prove whether freedom of speech is a necessarily good or bad thing; this is not a choice between freedom and tyranny. Individuals have the freedom to choose which community they reside in. The debate today is whether an individual should have the right to express any of their opinions without restraint, or if their freedom of speech should be limited by a community’s standards to protect the general welfare of their citizens. Let’s look to one final application of this…

## Application: Nazi march in Skokie, Illinois.

In 1977, the National Socialist Party of America announced its intention to carry out a protest in Skokie, Illinois, wearing Nazi Youth uniforms.[[72]](#footnote-71) Skokie was a primarily Jewish suburb in Chicago, where 1 out of every 6 Jewish residents was a Holocaust survivor.[[73]](#footnote-72) The community stated that if the march was carried out, it would promote hatred towards those of the Jewish race, inflict further suffering on holocaust survivors, and spark uncontrollable violence [[74]](#footnote-73) - all violations of general welfare. Even though two separate courts ruled that it was within the freedom of speech for the members of the NSPA to carry out their demonstration,[[75]](#footnote-74) due to the outrage of the residents of Skokie and other communities, the Party marched elsewhere.[[76]](#footnote-75) Due to the moral standards of Skokie being upheld, the general welfare of the community was ensured. The NSPA’s actions would have violated not only the morals of the community, but also the community’s peace, health, and safety.

# Conclusion

A question that might arise is this: should individuals be granted free speech at all? Oh, absolutely! But not at the cost of a community’s peace, safety, and morals. Freedom of speech is a wonderful thing, but without justified limits by a community’s moral standards, it harms general welfare, and ultimately, innocent people.

Affirmative Brief: General Welfare

## Definitions

If you can take out the definition of freedom of speech it will weaken the first contention. The negative is defining freedom of speech with no restraints. So, if you are defining it as being limited by others rights and can pull through your definition, the impacts of hate speech and genocide denial will become weaker because the resulting violence cause in both applications doesn’t fit under your definition.

## Value

The problem with this value is how broad it is. What is peace? Health? Morals? I would argue that your value is a clearer standard (obviously, providing that it actually is!) for determining the resolution. However, if your value is similar, or you think your applications better uphold general welfare, then you can turn it to support your side.

## Contention 1

As I already mentioned, taking out this contention is as simple as the definition of freedom of speech. I would argue that freedom of speech is like any other right because it is not absolute and does indeed have limitations. But beware, there are great arguments for both interpretations, so be prepared to fight for your definition.

If you accept the negatives definition or have a similar one, then you could simply ask where we draw the line for limiting the freedom to voice unpopular ideas. Genocide denial is the opinion of the minority, and if freedom of speech doesn’t protect the unpopular ideas, why would we need to protect it at all?

## Contention 2

With the application under this contention, you could either “bite the bullet” and say that the NSPA should indeed have had their freedom of speech upheld, or (the safer option) delink it from the value. In the end, the National Socialist Party didn’t carry out their protest in Skokie, but in Chicago, so even though General Welfare was *endangered* it wasn’t technically *violated.*

“Walking the Knife’s Edge”

Negative Case: Balanced/ Kritik

by Matthew Erickson

# Introduction

Every society walks the edge of a knife. Unless a society guarantees freedom to the individual, it will inevitably become corrupt and oppressive. At the same time, society must have certain standards required of its members to guarantee social stability and a culture conducive to bringing up it’s young. If it strays but a little to one side or another, it will fall into moral anarchy. Because affirming the resolution forces us out of this precarious balance, it should be negated.

# Value: Moral Truth

There are two main kinds of truths: moral truths and scientific truths. While scientific truths say what *is*, moral truths say what *should be.* Valuing **moral truth**, or what should be, means living in such a way that is concerned with how the world is supposed to be and holding others to that same standard.

## Link 1: The Center of the Conflict

Conflicts between freedom of speech and a given community’s moral standards occur because of a disagreement between the moral standards of the majority and the actions of a single person or a small minority exercising their right to freedom of speech. An example of this can be seen in the trial and execution of the philosopher Socrates. The Athenian culture valued both civic duty and freedom of speech. They believed that people should be free to make their beliefs known, but also expected their citizens to act in the interest of their city. Then a man named Socrates came along who questioned the way they defined moral virtues like justice. He too claimed to be seeking moral truth, but questioned the validity of Democracy and dared to question their pantheon, suggesting that Zeus didn’t exist. He had swayed many young men to his cause at a time where the Athenian way of life was threatened on all sides. The Athenians valued their moral standards over freedom of speech and ended up silencing him.

This theme is found in all of history. Because moral truth is the traditional battleground of these two ideas, it is upon it that we should base our decision.

## Link 2: The Purpose of Living

Claiming that something is the purpose of living is an audacious claim. How could one claim that any one thing is the purpose behind life? The reason this is true is that without a search for and belief in the existence of some moral truth, life loses meaning. If there is no right and no wrong, then there is no reason to support or negate any resolution, and no reason for or against living one way or the other. While values like the general welfare or life are certainly important, they are irrelevant if one doesn’t believe in the existence of moral truth. Because moral truth is the basis of all value choices we make, we should use it to make this choice as well.

# Contention 1: moral standards without free speech backfire

Nobody knows everything. That’s why we must have freedom of speech. Even the most moral person needs to have people in his life to question his actions to ensure he stays on the “straight and narrow”. The absence of freedom of speech requires oppressive action to keep people silent, which in turn requires immoral action.

## Application: The Middle Ages

During the Middle Ages, the Christian Church was not known for supporting freedom of speech. Why? They feared heresy. They feared what would happen if their moral standards were questioned. This lead to a host of atrocities including witch hunts, depriving poor people of their money promising salvation via “indulgences”, inquisitions, and even wars against neighboring countries.

This is just one of many examples that prove: valuing moral standards at the expense of freedom of speech actually leads to immoral action.

# Contention 2: free speech without morality harms

While it is true that free speech is necessary to keep society morals consistent, it is not sufficient. When people use their freedom of expression without concern for the conflict with community moral standards, the results are rarely good.

## Application: Miller v. California

The Supreme Court has long held that pornography is at least partially protected under the first amendment since it is included within freedom of expression. However, there are limits that communities can and should place upon this freedom. In the case Miller v. California, the defendant was convicted of sending adult material to unsolicited addresses. The majority decision of the Supreme Court states “The basic guidelines for the trier of fact must be: (a) whether ‘the average person, applying contemporary community standards’ would find that the work, taken as a whole, appeals to the prurient (unhealthily sexually evocative) interest” [[77]](#footnote-76) (parentheses mine).

The impact of this is that the Supreme Court ruled that community moral standards can and should be used to limit people’s expression of ideas and values. With our own reason we can reach the same conclusion. Imagine the moral depravity of a nation that didn’t provide this kind of protection to people. All communities that desire to foster an environment hospitable to a search for moral truth will place certain moral standards to restrict freedom of speech.

# Conclusion

In conclusion, moral truth is the overriding value. It not only is the center of this particular value conflict, it is the reason we can have meaningful conversations about all values. Without it there is no meaning to do or not do anything. Community moral standards and freedom of speech must be in balance for moral truth to be advanced. If we buy into the thinking this resolution gives us, our society will either go the way of the Medieval Church or will allow unscrupulous men and women to stifle moral truth with public, prurient sexual material. Either choice is bad, so don’t choose. When they are in conflict, sometimes value one higher, sometimes the other.

Negative Addendum: Balanced/Kritik

The strategy behind this case is one that can be applied to almost any “comparative resolution” (resolutions that compare two values). The thesis is that the two values in question (in this case community moral standards and freedom of speech) are mutually dependent. Valuing one over the other causes harm to both. Now, depending on how you phrase your thesis, it can technically be a “balanced negative” or a “kritik”. If you phrase it as “(insert two values) are equally valuable and must stay in balance when they are in conflict, it is considered a balanced negative. The second approach is really a kritik of the resolution, because it states something to the effect of “Sometimes one value must be valued higher, sometimes the other. The resolution forces the judge to pick sides when picking either side has a high chance of endangering (insert value).” I like to call it a “balanced kritik”. I think the latter position is more tenable, which is probably why it has become more popular than the traditional balanced negative.

One last note: this case is too long. It is not meant to be used with both value links in most circumstances. I included both of them to a) give debaters different ideas of how to link morality to the resolution and b) to allow people who use this case at the beginning of the year to go for a more “flex neg” approach, using one link for certain Affirmative cases and another for others.

Affirmative Brief: Balanced/Kritik

The first approach to dealing with any balanced kritik is to challenge the strategy itself. This strategy is the heart of the case’s thesis: societies require a balance between moral standards and free speech to pursue moral truth. Smart affirmative will argue that of course either side of the resolution can be abused. If one side is impossible to be taken too far, either the affirmative has used abusive definitions or the resolution is severely flawed. Point out to the judge that just because the two values need to have some kind of balance doesn’t mean that one shouldn’t be valued over the other. Of course, the negative can pull the classic argument that “the resolution is absolute” because it is unconditional in its endorsement of one value, but most debaters will tell you that this argument has mixed results.

As far as the value conflict goes, values like morality and it’s like are really irritating to debate against. Everyone’s instinctive response (with the exception of nihilists) is “well of course we should be moral.” Honestly, that might be your best response. Acknowledge it as the overarching value and tell the judge that your value is moral. End of conflict.

Your second argument should be to detach a community’s moral standards from moral truth. While at first this might seem odd, it will work with most judges. Just point out to the judge that there is no guarantee that a community’s moral standards will be in line with moral truth, while freedom of speech tends to weed out bad ideas over time.

“For Amanda”

Negative Case: Social Good

by Travis Herche

# Introduction

I believe that there have to be standards. There have to be things you can’t say to other human beings. And so I oppose this resolution.

# Value: Social Good

**Social good** is operationally defined as: “The elements of well-being which are experienced by all members of a community, nation, or other group.” Here’s why Social Good is the best way to measure the round:

## Reason to Prefer: Broad Measure

The topics of freedom and morality are very broad. We need a broad value that can tackle this resolution – one that is robust enough to allow you to evaluate every relevant point. Social good can do that.

Now let’s dig into the two contentions:

# Contention 1: Freedom of Speech Threatens Social Good

Of course, I don’t oppose freedom of speech up to a point. Citizens should generally be allowed to say what they think in any setting. However, there is a line that must be drawn. That line is when the things that we can all agree on – like the sacredness of human life – are jeopardized. When that line is crossed, social good is harmed.

## Application: Geraldo Rivera

During the invasion of Iraq in 2003, Fox News reporter Geraldo Rivera accompanied the 101st Airborne. In a live broadcast, he told his cameraman to tilt his camera down toward the sand.

I quote CNN’s report to describe what happened next: “The Fox correspondent then outlined a map of Iraq, and showed the relative location of Baghdad and his location with the 101st Airborne unit. Rivera then continued with his sandy diagram to illustrate where the 101st would be going next. “He went down in the sand and drew where the forces are going,” said a stunned senior military official. “He gave away the big picture stuff.””[[78]](#footnote-77)

Rivera used his trusted position as a veteran reporter to put the lives of American soldiers in danger. His actions were worthy of far worse punishment than merely being escorted promptly out of Iraq. Rivera’s reprehensible behavior was a blatant abuse of free speech – clearly not worthy of protection.

# Contention 2: Moral Standards protect Social Good

There are some moral standards – like the debate over gun control – where you can expect a lot of disagreement, and that’s okay. But there are other moral standards that are shared by communities. They create lines that should not be crossed by anyone, whether they’re technically free to or not.

I want to apologize in advance because the story I’m about to tell you is a gut-wrenching one. The sad fact is, there are no happy stories of community moral standards being violated.

## Application: Amanda Todd

In 2012, Amanda Todd posted a YouTube video in which she showed a series of cards to the camera. It begins: “Hello! I’ve decided to tell you about my never ending story [.]” She described her encounters with a cyber-stalker in 7th grade – a stalker who manipulated, blackmailed, and terrorized her. He sent a sensitive photo to everyone Amanda knew, destroying her relationships and emotional well-being.

Amanda moved, changed schools; but the stalker followed her. Major depression and panic set in. She couldn’t sleep or leave the house. She lost all her friends and was subject to brutal name-calling and judgment. Amanda was caught in a downward spiral; everyone she reached out to hurt her even worse.

I’m going to keep going because I think it’s important that we understand what unrestrained freedom of speech really means. This is the dark side of it; the side my opponent won’t show you. This is almost over. Bear with me.

I quote again from the cards as she’s confronted in another school: “The girl and 2 others just said look around nobody likes you. In front of my new school (50) people … A guy than yelled just punch her already so she did …” “Kids filmed it. I was all alone and left on the ground. I felt like a joke in this world.” “After I got home all I saw was on facebook – she deserved it, did you wash the mud out of your hair? – I hope she’s dead.” Amanda endured 6 more months of brutal bullying. “Why do I get this?” Amanda asked in the video. “I messed up but why follow me …”

The video ended on a tear-streaked face and the words: “My name is Amanda Todd …”[[79]](#footnote-78)

A month later, she committed suicide.[[80]](#footnote-79)

# Conclusion

There have to be standards. There have to be things you can’t say to other human beings. That’s the bottom line. Thank you.

Negative Addendum: Social Good

If the affirmative value is sufficiently vague, accept it. Run societal good only if you’re forced to because the affirmative value is too small and/or lopsided. It’s a last resort. You should be very unhappy about having to run the value. Spend as little time on it as possible and never make it a voting issue. Your case is about the super-value and the applications.

You’re are not using the legal definition of freedom of speech. Get into a definition debate if necessary. You’re okay with freedom having limits on direct harm, but the true meaning of freedom of speech enables saying hurtful things to each other. The things described in the applications are illegal because the USA does not uphold the resolution.

One of the challenges of this resolution is that, when picking negative applications, you have to choose between a really upsetting story or a weak one. This case opts for “upsetting tragic” instead of “gut-wrenching offensive.” There isn’t a comfortable place to go because it’s your job to talk about the consequences of upholding the resolution. You shouldn’t ever be comfortable with the application for the second contention of whatever case you choose to run. If you are, find another.

This should go without saying, but you should change your delivery when delivering the Amanda Todd application. Speak slowly, quietly, and reverently. Use pauses. *Please* be gentle to the judges. You don’t need to do anything to make the story poignant; just get through it together. Whatever you do, don’t deliver it in a professional, distant, or hyper-polished way. If you can’t break out of that delivery pattern, find a different application.

Always use Amanda Todd’s story with respect. It’s appropriate to point to tragedies like this – as with tragedies like the Rwandan genocide last year – to learn from them, but you want to make sure you never have the attitude that you’re exploiting it for personal gain. Remember that Amanda Todd was a real person who could have been your friend.

Affirmative Brief: Social Good

Carefully analyze your case from a pragmatic standpoint. You may be able to just accept it.

Resist the urge to dodge the negative applications by saying that they’re non-resolutional because the bad behavior in them was illegal. American law and freedom don’t sync up very well, and “American Law” isn’t in the resolution. Don’t back down from freedom; fight for it!

Fighting for freedom probably means – in the most sensitive way you can – arguing that your applications outweigh your opponent’s. Freedom is messy and bad things happen sometimes, but it’s far better than the alternative.

Your case logic may give you other ways to dislodge the applications, like arguing that “community moral standards” is a meaningless phrase. Whatever you do, trust the case you already ran. Don’t cook up some new and elaborate philosophies for the 1AR.

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